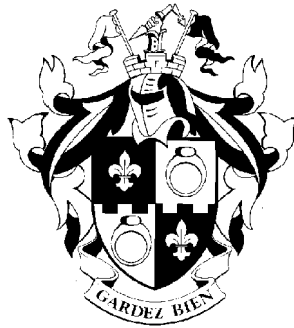


THE DEPARTMENT OF HEALTH AND HUMAN SERVICES'
CONTRACT EXECUTION AND MONITORING PROCESS



OFFICE OF LEGISLATIVE OVERSIGHT
REPORT NUMBER 2009-1

September 23, 2008

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**THE DEPARTMENT OF HEALTH AND HUMAN SERVICES’
CONTRACT EXECUTION AND MONITORING PROCESS**

**OFFICE OF LEGISLATIVE OVERSIGHT REPORT 2009-1
SEPTEMBER 23, 2008**

This OLO project describes the Department of Health and Human Services’ (DHHS) procedures and practices for executing and monitoring contracts and presents data for FY08 contracts executed by DHHS’ Children, Youth and Family Services (CYF) service area. The Council requested this study to enhance its understanding of how DHHS contracts are executed and monitored, and to identify changes to improve processing times and oversight practices.

THE LEGAL FRAMEWORK FOR PROCESSING COUNTY CONTRACTS

The County Charter requires the Council to establish in law a centralized procurement system. The intent of the County’s procurement laws and regulations is to maximize competition, generate the receipt of responsive and responsible bids, and lead to the award of cost effective contracts.

Chapter 11B of the Montgomery County Code establishes the County Government’s system for purchasing goods and services and Executive Regulations define the procedures that County staff must follow to procure virtually all goods and services.

The County’s procurement law and regulations establish an array of methods to enter into competitive contracts - competitive sealed proposals, bridge contracts, and open solicitations - and two non-competitive methods - non-competitive contract awards and emergency procurements. With four exceptions, all purchases subject to procurement laws and regulations must have a written contract document that complies with the law’s provisions.¹ Some of these provisions are designed to insure the integrity of the purchasing process; others to further public policies. For example, County law mandates:

- Review of a vendor’s insurance certificate by the Division of Risk Management to make sure the vendor’s insurance complies with the requirements established in the contract;
- Approval of the contract by the Office of the County Attorney to ensure the contract: defines the services being purchased, establishes how the County will know the services have been received, and identifies the basis for compensation;
- Enforcement of living wage requirements to ensure that all vendors pay each “covered employee” at least \$12.40 per hour;
- Review of the local small business designation by the Using Department for compliance with the County’s Local Small Business Reserve Program;
- Examination of a vendor’s Minority, Female and Disability Program status by the Office of Procurement for Compliance with the County’s MFD program; and
- Cost and price analysis by the Office of Procurement for competitive contracts over \$100,000, non-competitive contracts over \$50,000, or contract modifications of \$50,000 or more.

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¹ Exceptions that do not require a written contract are: direct purchases (purchases for \$5,000 or less); reimbursable purchases by Using Departments; credit and debit card purchases; and emergency procurements.

AN OVERVIEW OF THE PROCUREMENT SYSTEM'S ROLES AND RESPONSIBILITIES

The County Government operates a centralized procurement system that is supervised by the Chief Administrative Officer. The Director of the Department of General Services, designated in law as the County's "central procurement officer," is responsible for purchasing or supervising the purchase of all County goods, services, and construction. County Government departments, offices, and agencies – collectively referred to in the procurement regulations as "Using Departments" – are responsible for complying with the procurement laws and regulations when making purchases.

DHHS' RESOURCES, POLICIES AND PRACTICES FOR CONTRACT ADMINISTRATION

DHHS spends approximately 40% of all County Government procurement dollars. Seven DHHS organizational units share responsibility for the management of individual procurements as well as the development, execution, and administration of the resulting contracts.

- Five DHHS Service Areas have lead responsibility to decide purchasing methods, prepare solicitations to vendors, and draft contract documents. Once a contract award is made, service area staff initiate vendor negotiations to determine the explicit set of services, terms, and conditions. Because the process to finalize a contract is an interdepartmental effort, service area staff also work with the DHHS Contract Management Team, the Office of Procurement, the Office of the County Attorney, and the Department of Finance's Division of Risk Management.
- DHHS' Contract Management Team (13 WYs) and Fiscal Team (6WYs) support the operations of all five DHHS service areas. The Contract Management Team (CMT) provides technical contracting assistance to DHHS service area staff, manages the flow of documents for all DHHS contract actions, and serves as liaison to County Government offices outside of DHHS with contract processing responsibilities. The Fiscal Team provides budgetary and fiscal oversight for all DHHS contracts and vendor payments.
- Service Area staff also have lead responsibility for monitoring contracts, for inspecting and accepting goods and services prior to making payment, and for authorizing payments.

DATABASE AND TECHNOLOGY MANAGEMENT SUPPORT. The document management system that supports DHHS' contract administration activities is primarily a paper-based system. Examples of paper-based forms include contract action worksheets that DHHS uses to track all contract actions and the contract monitoring plan forms.

DHHS uses multiple database systems to track its contracts and contract actions. CMT currently uses a Microsoft Access database to track all DHHS contracts and contract actions, and CYF maintains a separate database to track its contract information. The CMT and CYF databases do not contain identical information about the contracts managed by CYF – some contracts are listed in one database but not the other and vice versa.

In 2006, DHHS established an online set of scanned contract files and key documents. DHHS acknowledges it faces an ongoing need to automate and/or upgrade the systems it uses to manage its business functions, including contract execution and monitoring.

DHHS' CONTRACT MONITORING PRACTICES. DHHS has established guidelines for contract monitoring practices. The Guidelines outline methods for monitoring contracts, discuss the use of performance measures for contract monitoring, and provide standard contract monitoring forms. In Children, Youth and Family Services, the use of and compliance with DHHS' program monitoring guidelines varies among contract monitors. Some of the factors that account for this variation include:

- The workload of a contract monitor;
- The history and reputation of a vendor;
- The type and complexity of a contract;
- The dollar value of a contract; and
- The community visibility of a service.

RECENT DHHS INITIATIVES TO ADDRESS CONTRACTING ISSUES. DHHS has taken proactive steps to improve the internal controls of its contract execution and monitoring processes. This year, given the volume of year-end contract transactions, the DHHS Director and Office of Procurement staff met to establish priorities and implement strategies to manage the end-of-year process more efficiently. DHHS also completed a Barrier Analysis that examined workload, training, technology, and procurement regulations. And, DHHS' Children, Youth and Families Service Area convened a workgroup of senior leadership and contract monitors to brainstorm process improvements.

RESOURCES AND DATA FOR CHILDREN, YOUTH AND FAMILIES' FY08 CONTRACTS. In FY08, 19 CYF staff across five program areas managed 110 contracts with a total value of \$17.3 million. CYF's program areas use a variety of different source selection methods. As shown below, contracts developed through a Request for Proposal (RFP) process make up most of the Early Childhood Services' portfolio, whereas community grants make up most of Child and Adolescent Services' portfolio.

Program areas' staffing structures to carry out contract administration duties differ as well. For example, in Child Welfare Services and Income Support Services, staff serve as contract monitors and fiscal managers, whereas in Early Childhood Services, all fiscal duties are assigned to one fiscal manager and the monitoring duties are assigned to numerous contract monitors.² Across all program areas, only a few staff serve as dedicated fiscal managers or contract monitors. Instead, contract monitoring duties are assigned to staff with primary duties in program management and administrative program support.

Program Area	# Staff	Competitive Contracts			Non-Competitive Contracts			# Total Contracts
		# RFP	# Informal	# Open	# Community Grants	# Named in Grant	# Public Entity	
Child Welfare Services	2	4	1	10	4	1	0	20
Early Childhood Services	8	35	0	0	6	0	0	41
Income Support Services	2	3	0	0	0	0	0	3
Juvenile Justice Services	5*	5	0	0	2	2	0	9
Child and Adolescent Services	4*	9	0	0	27	0	1	37
Total	19*	56	1	10	19	3	1	110

*Two staff administer contracts in both Juvenile Justice Services and Child and Adolescent Services. The table displays these positions in each program areas but displays the total staff as 19.

² Contract monitors are responsible for: defining service needs, developing the scope of services, assisting in the drafting of contracts, and monitoring contract performance. Fiscal managers are responsible for reviewing invoices and processing vendor payments, and initiating contract actions at the request of the contract monitor.

PROCESSING TIMES FOR EXECUTING CONTRACTS AND VENDOR PAYMENTS, FY08. OLO examined data for 29 CYF contracts awarded in FY08 to find out how long it took to produce a written contract document after completion of the source selection process. OLO grouped the contracts by source selection method and calculated the average processing times for each group. The results show that, on average, open solicitation contracts were processed more quickly than Request for Proposal or Community Grant contracts. Specifically, on average it took:

- 84 work days to produce an executed contract following an Open Solicitation;
- 93 work days to produce an executed contract following a Request for Proposal solicitation; and
- 114 work days to produce an executed contract following a Community Grant contract award.

See OLO Report 2009-1, page 41, for a description of OLO's methodology and more detailed results.

COUNTY STAFF FEEDBACK ON CONTRACT EXECUTION. OLO solicited observations from County staff about factors that influence the length of time to execute a contract. The factors County staff identified included:

- Increasing size and complexity of DHHS' contract workload;
- Lack of training for contract monitors;
- Lack of automation for contract execution and other business processes; and
- Lack of staffing across departments with a role in contract execution.

OLO also asked County staff also to identify factors that could explain why it takes longer to execute a contract following a community grant award. County staff identified the following factors:

- The development of community grant contracts occurs at the same time that Department staff are busy with end-of-year contract processing;
- In comparison to contracts awarded as a result of a competitive process, there is often less documentation available prior to the award of a non-competitive community grant; and
- The vendors who receive community grants are more likely to be unfamiliar with the County's procurement requirements and it may take them longer to generate the required documentation.

RECOMMENDATIONS

DHHS recognizes additional opportunities exist to improve the contracting process. OLO recommends the Council review and discuss the following recommendations with DHHS and other County departments that have contract execution and contract monitoring responsibilities.

- #1. Consider changes to County law governing contracts to increase efficiency in the procurement process. Some ideas that merit review are: increasing the dollar threshold for purchases that require a written contract, expanding the list of purchases that are exempt from procurement regulations, and changing the implementation mechanism for non-competitive community grant awards.
- #2. Update and formalize DHHS' contract monitoring guidelines.
- #3. Assess the adequacy of DHHS training for contract monitors and consider implementation of a Children, Youth and Family Services' Workgroup recommendation to train vendors.
- #4. Develop an interim technology and data management plan for DHHS' procurement process pending full implementation of the County's Enterprise Resource Planning (ERP) initiative.

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CHAPTER I: AUTHORITY, SCOPE, AND ORGANIZATION OF REPORT

A. Authority

Council Resolution 16-673, *FY 2009 Work Program for Office of Legislative Oversight*, adopted July 29, 2008.

B. Purpose and Scope

The approved FY09 Work Program for OLO included a follow-up assignment identified during the Council's review of OLO's report on internal service functions in the County Government. The findings for Phase 1 of this project were presented last fall in OLO Report 2007-10, *Inventory of Internal Service Functions Performed by Five Montgomery County Departments*. The County Council's Management and Fiscal Policy Committee requested a more detailed look at the Department of Health and Human Services' (DHHS) procurement policies and procedures as a follow-up Phase 2 project.

This OLO project examines DHHS' procedures and practices for executing and monitoring contracts. This study is limited to a review of contracts executed in FY08 by DHHS' Children, Youth and Family Services (CYF) service area.

Based on a review of CYF's FY08 newly executed contracts, the report:

- Classifies and summarizes the number and value of new contract actions by contract type, e.g., competitive, community grantee, grant-designated;
- Provides a set of process maps that shows the sequence of activities to execute a new contract, with an assessment of processing times for each phase; and
- Identifies factors that contribute to variations in contract execution practices or processing times.

In addition, the report:

- Summarizes how DHHS monitors contract performance;
- Describes the use of contract monitoring strategies, such as monitoring plans, site visits, and written monitoring reports; and
- Examines DHHS' practices to incorporate performance measures and collect performance outcome data.

The purpose of this project is to enhance the Council's understanding of how DHHS contracts are executed and monitored, and to identify potential improvements to processing times and oversight practices.

C. Organization of Report

Chapter II, Overview of the County Government Procurement System, provides an overview of procurement law in the County Charter, County Code, and County Regulations.

Chapter III, Overview of Contracting in DHHS' Children, Youth and Family Services, presents an overview of the Children, Youth and Family Services service area; provides a summary of the number, type, and value of contracts for CYF; and describes the contract administration practices of each CYF program area.

Chapters IV, Contracting and Information Management Support from Other County Departments, describes the institutional structure and information management systems that support CYF's contract administration activities, including DHHS' Office of the Chief Operating Officer; the Office of Procurement in the Department of General Services; the Division of Risk Management and Accounts Payable in the Department of Finance; the Office of the County Attorney; and the County Council and County Executive.

Chapter V, Contract Execution Process Maps and Processing Times, presents a set of process maps to show the sequence of transactions carried out by County staff to execute and make a payment on a contract. These maps are accompanied by a description of each process and responsibilities, and an assessment that examines elapsed time data for each process.

Chapter VI, Procedures for Monitoring DHHS Contracts, outlines the DHHS' Program Monitoring Guidelines, including roles and responsibilities of DHHS contract monitoring staff and tools used to monitor contracts. The chapter also describes specific contract monitoring practices in CYF's five program areas.

Chapter VII, Feedback from County Staff, summarizes observations by County staff from the Department of Health and Human Services, the Office of Procurement, and the Office of the County Attorney on the contract execution and monitoring processes.

Chapter VIII presents the Office of Legislative Oversight's **Findings**; and **Chapter IX** presents OLO's **Recommendations**.

The final chapter contains the Executive Branch's comments on a final draft of this report.

D. Methodology

Office of Legislative Oversight (OLO) staff members Sue Richards and Kristen Latham conducted this study, with assistance from Leslie Rubin. OLO gathered information through document reviews, data analysis, and interviews with staff of the Department of Health and Human Services, the Office of Procurement, and the Office of the County Attorney.

E. Acknowledgements

OLO received a high level of cooperation from everyone involved in this study. OLO appreciates the significant time commitment, information shared, and insights provided by the following people:

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- Mary Ellen Davis-Martin, Office of Procurement, Department of General Services;
- Karen Federman-Henry, Office of the County Attorney; and
- Pam Jones, Office of Procurement, Department of General Services.

We would like to thank the following County staff from the Department of Health and Human Services:

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- Jeri Cauthorn, Contract Management Team Leader;
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- Kara-Ingram Dukes, Contract Management Team;
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- Beth Molesworth, Early Childhood Services;
- Jim Moorefield, Fiscal Team;
- Kathie Nevin, Child and Adolescent Services;
- Maria Paganini, Income Support Services;
- Ron Rivlin, Juvenile Justice Services;
- Debbie Shepard, Early Childhood Services; and
- Pat Spann, Child Welfare Services.

In addition, OLO acknowledges the valuable assistance provided by OLO staff member Teri Busch.

F. Definitions

This section provides key definitions for contract administration in Montgomery County. These definitions are taken from the Montgomery County Office of Procurement's Online Glossary, available at <http://www.montgomerycountymd.gov/content/DGS/pro/Glossary.asp>.

AWARD: The release of a fully executed contract to an offeror. This release may be accomplished by a contracting officer by depositing the contract in the mail, with a common carrier, delivering it to the offeror, or notifying the contractor by phone, telegram or other means that communicates acceptance of the offer by the County.

COMPETITION: The process by which more than one valid source of supply for goods, services, or construction is solicited through the submission of offers that are to be evaluated in a comparative way for the purpose of selection of the source or sources most advantageous to the needs of the County.

CONTRACT: Any type of documented agreement or order for the procurement or disposal of goods, services, construction, or any other item that is binding on the contractor and the County.

CONTRACT ADMINISTRATOR: An authorized government official charged with responsibility for administering a contract with authority as provided in the contract document.

CONTRACTOR: Any individual or organization doing business with the County whether for services, construction or for the sale of goods or services pursuant to a contract.

COST ANALYSIS: The review and evaluation of the separate cost elements and proposed profit of an offeror's or contractor's cost or pricing data and an offeror's or contractor's assumptions and judgments in estimating costs from cost data.

DIRECT PURCHASE: An informal procurement of goods, services, or construction that is accomplished under the direct authority of the Using Department Head and not by the Director of the Office of Procurement.

FORMAL SOLICITATION: Invitation for Bids (IFB), Requests for Proposals (RFP), and Requests for Expressions of Interest (REOI).

GRANT: An action by a public or private entity that directs funds on a non-competitive basis to a specific entity. A grant must be implemented by a contract. This report refers to "**Community Grants**," which are grants where a proposed contractor has been identified in a grant or appropriation resolution approved by the Council, and "**Named In Grant**" awards, which are grants where a proposed contractor or subcontractor has been specifically identified in a grant accepted by the County.

INFORMAL SOLICITATION: A procurement not subject to formal notice that is accomplished without an invitation for bids, request for proposal, or request for expressions of interest.

NOTICE TO PROCEED: A written notice to the contractor issued by an authorized government official directing commencement of contract performance.

OFFEROR: A person or entity who makes an offer in response to a solicitation or makes an unsolicited offer.

OPEN SOLICITATION: A process by which the County accepts applications for a contract on a continuing basis and awards a contract to each applicant who meets pre-established objective qualifications.

REQUEST FOR PROPOSAL (RFP): A solicitation to prospective offerors, the response to which is analyzed in accordance with selection criteria set forth in the solicitation for the purpose of ranking the proposals received.

SCOPE (SCOPE OF CONTRACT): The entire subject matter of a contract in terms of goods to be delivered, services, or construction to be performed under the contract. Scope includes all contract terms, conditions, and specifications. Scope also includes “scope of services,” if appropriate, which defines the work to be accomplished under the contract.

USING DEPARTMENT: Any County department, office, or agency subject to the procurement requirements imposed under Chapter 11B of the Montgomery County Code.

CHAPTER II: OVERVIEW OF THE COUNTY GOVERNMENT PROCUREMENT SYSTEM

This chapter describes the laws and regulations governing the County Government's purchase of goods, services and construction – its procurement laws and regulations. Montgomery County Government operates a procurement system with a centralized Office of Procurement (in the Department of General Services) and with substantial responsibilities delegated to the County departments.

- **Part A, Contracting in Montgomery County**, describes the County's contracting system; and
- **Part B, Additional Requirements**, describes several initiatives and requirements implemented through Montgomery County's procurement law and regulations.

A. Contracting in Montgomery County

The Montgomery County Charter requires the Council to establish in law a centralized procurement system – supervised by the County's Chief Administrative Officer (CAO) – for purchasing and contracting for all goods and services used by the County.³ The Charter also requires that purchases by or contracts with the County for more than a dollar amount set in law must be "competitive."⁴

Chapter 11B of the Montgomery County Code contains the County's Procurement law, establishing a system for purchasing goods and services and authorizing the County Executive to adopt regulations⁵ to implement the law. With some exceptions, the procurement law applies to every County Government purchase of goods, services, or construction.⁶ Montgomery County's Contract Administration Manual indicates that the intent of these laws and regulations is to maximize competition, generate the receipt of responsive and responsible bids, and lead to the award of cost-effective contracts.

Roles and Responsibilities. Multiple County Government departments and staff share responsibility for implementing the County Government's procurement system. The CAO has primary responsibility for contracting in the County, which has been delegated to other County Government employees. Under the law, the Director of the Department of General Services is the County's "central procurement officer," responsible for purchasing or supervising the purchase of all County goods, services, and construction, and for disposing of surplus goods.⁷

The procurement regulations assign the Director of the Department of General Services several responsibilities, including:

³ Montgomery County Charter § 313.

⁴ Montgomery County Charter § 314.

⁵ See Code of Montgomery County Regulations §§ 11B.00.01.01 [hereinafter COMCOR].

⁶ Montgomery County Code § 11B-3 [hereinafter "MCC"].

⁷ MCC § 11B-6(a), (b).

- Advertising County needs to purchase goods, services, or construction;⁸
- Implementing a program to make purchases from minority-owned businesses;⁹
- Maintaining certain procurement records and documentation;¹⁰
- Making emergency procurements;¹¹
- Issuing decisions about contract disputes.¹²

In turn, County Government departments, offices, and agencies – collectively referred to in the procurement regulations as “Using Departments” – are responsible for complying with the procurement laws and regulations when making purchases.¹³ In practice, Using Departments oversee management of individual procurements and resulting contracts. These responsibilities include deciding on purchasing methods in accordance with the Procurement Law and regulations, preparing solicitations to vendors, drafting contract documents, requesting insurance requirements and legal review, inspecting and accepting goods and services prior to making payment, and authorizing payments.

Prior to finalizing contracts, the Office of the County Attorney is responsible for reviewing and approving contract documents for form and legality. The Department of Finance oversees contractor insurance requirements (Division of Risk Management) and payment of vendor invoices (Accounts Payable Section of the Controller Division).

Exemptions from Procurement Laws and Regulations. By law, some County Government purchases do not have to comply with the procurement laws and regulations. Purchases that are exempt from the law include¹⁴:

- Procurements for the employees’ retirement system;
- Obtaining the services of special legal counsel authorized in the Charter;
- Hiring an independent auditor under the Charter;
- Hiring an impasse neutral, mediator, or fact finder under a County collective bargaining law, under procedures approved by the Chief Administrative Officer;
- Buying copyrighted material and information under procedures approved by the Chief Administrative Officer for use by a public library;
- Buying electricity, natural gas, and compressed natural gas, under Executive Regulation;
- Buying goods or services for County-sponsored recreational activities in situations where the purchase is made on behalf of a group of people who contributed funds to participate in the activity;
- Obtaining entertainment services; and
- Any other procurement exempted from the procurement laws by another law.¹⁵

⁸ See, e.g., COMCOR §§ 11B.00.01.04.4.1.1.4 (for IFBs); 11B.00.01.04.4.1.2.4 (for RFPs).

⁹ COMCOR §§ 11B.00.01.07.7.2.1.

¹⁰ COMCOR §§ 11B.00.01.03.3.4.

¹¹ COMCOR §§ 11B.00.01.04.4.1.11.1.

¹² COMCOR §§ 11B.00.01.14.14.1.2.7.

¹³ COMCOR § 11B.00.01.05.5.1.

¹⁴ See Appendix A for PMMD-148, which includes exemptions to Procurement regulation.

¹⁵ MCC § 11B-4(a).

Methods for Purchasing Goods and Services. The Procurement law and regulations establish numerous methods for County purchases, referred to in the law as “source selection” methods.¹⁶ Some source selection methods involve competition – where the County solicits goods, services, or construction from more than one source – and some do not.¹⁷ Table 2-1 summarizes these methods. Revisions to these thresholds are currently being prepared and will be sent to the Council for review in the next few months.

Table 2-1. Overview of Montgomery County Source Selection Methods

Source Selection Method	Dollar Threshold Requirements	Description
Competitive Source Selection Methods		
Petty Cash	\$100 or less	Petty cash is used for informal purchases of goods or services by employees and authorized by a Using Department Head.
Direct Purchase	\$101 - \$5,000	The Heads of Using Departments can authorize direct purchases for goods, construction, or services.
Mini-Contract	\$5,001 - \$24,999	A mini-contract is used to obtain professional services (and non-professional services under special circumstances) via an informal solicitation process.
Small Purchase	\$5,001 - \$24,999	A small purchase is an informal solicitation for goods, construction or services initiated by a Using Department. The County must contact at least five randomly selected potential offerors and at least one of the potential offerors should be a minority owned business. Contract award must be based on price, responsiveness and responsibility.
Competitive Sealed Bidding (IFB)	\$25,000 or more	IFBs request bids from vendors for construction, goods and non-professional services to provide the County an item or service identified in the IFB. IFBs must include specifications for items being purchased, criteria to evaluate bids, and all contractual provisions applicable to the purchase. Contract award must be made to the lowest responsible and responsive bidder.
Competitive Sealed Proposals (RFP)	\$25,000 or more	RFPs request proposals from vendors to provide the County a specific service identified in the RFP. The RFP process balances quality and price to obtain the best value for the County. RFPs must contain factors for evaluation of the proposal and an explanation of the ranking of vendors. Evaluation factors must include factors related to the technical quality of the proposal or the ability of the vendor, or both, and includes price. At least 10% of the total points for all evaluation criteria must be assigned to price.
Abbreviated Formal Solicitation	Less than \$100,000	A method for obtaining competitive sealed bids or competitive sealed proposals by using an abbreviated formal solicitation process, when determined by the Director, Department of General Services, to be in the best interests of the County.
Bridge Contract	No specific limit	A bridge contract is a procurement for goods, services, or construction using an existing competitive contract with another public entity when the Director, Department of General Services determines that a bridge contract is in the best interests of the County. The contract must be for the same goods, services, or construction being provided the other public entity at the same prices being charged the other public entity. The Contract with the other public entity must have been awarded as a result of adequate competition as determined by the Director, Department of General Services.

¹⁶ MCC §§ 11B-9 to 11B-16; COMCOR § 11B.00.01.1.04..

¹⁷ See COMCOR § 11B.00.01.02.2.4.15

Table 2-1. Overview of Montgomery County Source Selection Methods (Continued)

Source Selection Method	Dollar Threshold Requirements	Description
Competitive Negotiations	No specific limit	The County may use competitive negotiations if no bid or proposal is received or only one bid is received in response to an IFB or RFP; no bids or proposals received are acceptable; no bids or proposals received meet County price or budget limitations; or no vendors are responsible, and the Director, Department of General Services finds that further competitive bidding would be impractical or not in the best interest of the County.
Open Solicitation	No specific limit	Under an open solicitation, the County accepts applications for a contract on a continuing basis and awards a contract to each applicant who meets pre-established objective qualifications. An open solicitation allows the County to receive and act on an application for a contract award on a continuing basis.
Public Entity Procurement	No specific limit	A public entity procurement is an agreement to acquire or use any goods, services, or construction with a public entity upon terms and conditions considered to be in the best interest of the County as determined by the Director. A public entity procurement does not require public solicitation, nor does it require justification as a non-competitive procurement.
Request for Expressions of Interest (REOI)	No specific limit	An REOI is a formal solicitation for competitive sealed responses containing qualifications and other requested information from prospective vendors of the County's requirements. An REOI is initiated to obtain essential procurement information needed to prepare a subsequent solicitation.
Standardized Procurement	No specific limit	A standardized procurement is a purchase of goods determined by the County's Contract Review Committee to be equipment for which standardization and interchangeability of parts is necessary or is otherwise in the public interest.
Non-Competitive Source Selection Methods		
Non-Competitive Contract	No specific limits	The County may award a contract without competition if the CAO determines that contract award serves a public purpose and: <ol style="list-style-type: none"> 1. Only one source exists that can meet County needs for the required goods, service, or construction ("sole source"); 2. The good or service required is in connection with potential or pending litigation, condemnation, or collective bargaining; 3. A proposed contractor or subcontractor has been specifically identified in a grant accepted by the County ("named in grant"); or 4. A proposed contractor has been identified in a grant or appropriation resolution approved by the Council ("community grant").
Emergency Procurement	No specific limits	An emergency procurement is an informal procurement of goods, services, or construction necessitated by a threatened dangerous condition or a threatened imminent or unforeseen curtailment of an essential service or supply that will endanger or damage health, life or property and cannot be remedied through a normal procurement.

Source: MCC §§ 11B-9 to 11B-16, COMCOR § 11B.00.01.04.1

Requirement to Have Contracts. With four exceptions, all purchases in Montgomery County subject to the procurement laws and regulations require a written contract document (see page 7 above for a list of purchases that do not have to comply with procurement laws and regulations).¹⁸ The four exceptions that do not require a written contract are:

- Direct purchases (purchases for \$5,000 or less);
- Reimbursable purchases by Using Departments;
- Credit and debit card purchases; and
- Emergency procurements.¹⁹

Table 2-2 summarizes the types of contracts authorized in the procurement regulations.

Table 2-2. Summary of Types of Contracts Authorized in the Montgomery County Procurement Regulations²⁰

Contract Type	Description
Fixed Price Contract	County regulations deem this as the County's preferred contract method. A fixed price contract establishes a firm price for goods or services. All costs involved are firmly established, in writing, but may be subject to certain adjustments such as escalator clauses or incentive clauses.
Cost Reimbursement Contract	Cost reimbursement contracts provide for reimbursement of a contractor's costs to perform specified contract requirements plus a fee, if any. Costs may include hourly rates associated with personnel, overhead, out-of-pocket costs, and other costs specified in the contract. A time and materials contract is a cost reimbursement contract. The Contract must provide a means to insure that the costs are fair and reasonable. A Contract must not provide for compensation on a cost plus percentage of cost basis.
Requirements Contract	A requirements contract is for an indefinite quantity of goods, construction, or services to be furnished at specific times, or as ordered, at fixed unit prices. Whenever practical a requirements contract should include a maximum compensation amount.
Definite Quantity Contract	A definite quantity contract provides delivery of a specified quantity of goods, construction, or services either at specified times or when ordered.
Multiple Award Contract	A multiple award contract is one where more than one contractor is awarded a contract for specified goods, construction, or services.
Multi-Year or Term Contract	Multi-year or term contracts are used to purchase services over more than one year or contract term, when the performance of services involves high start-up costs, when a continuous source of supply over a multi-year or term period is required, or when a change-over of services involves high phase-in/phase-out costs during a transition period.
Incentive Contract	Incentive contracts relate the amount payable under the contract to the contractor's performance. Incentive contracts are appropriate when the required goods, services or construction can be acquired at lower costs or with improved delivery or technical performance, by relating the amount payable under the contract to the contractor's performance.

Source: Montgomery County Procurement Regulations

¹⁸ COMCOR § 11B.00.01.03.3.

¹⁹ Ibid. Note that whenever practical, the Department making the Emergency Procurement should use contract documentation required for a mini-contract or small purchase.

²⁰ See COMCOR § 11B.00.01.04.4.2.

B. Additional Requirements

Certain County contracts must comply with additional requirements set out in the procurement laws and regulations. Several of these requirements represent policy choices that are implemented through the County's procurement system. Using Departments must comply with these requirements when developing and executing contracts. This section briefly summarizes some of these requirements, including:

- Minimum wage requirements for contract employees;
- Conducting cost/price analyses for County contracts;
- County Attorney review of contract documents;
- Requirements to make purchases from minority, female, and disabled contractors; and
- Requirements to make purchases from local small businesses.

Wage Requirements. The County procurement law requires contractors and subcontractors to pay their employees at least \$12.40 per hour for employees providing services to the County.²¹ The law exempts certain contractors and certain types of contracts from this requirement, including nonprofit organizations, public entity contracts, and non-competitive contracts.²² County contracts contain provisions mandating these wage requirements.

Cost and Price Analysis. The Director of the Department of General Services must determine that the price paid under a contract is "fair and reasonable."²³ Before a Using Department recommends an award to a vendor, the Using Department must conduct a price analysis to determine that the price is "fair and reasonable."²⁴ Additionally, vendors must submit cost and/or pricing data for analysis prior to contract approval for competitively-negotiated contracts over \$100,000 and for non-competitively-negotiated contracts over \$50,000.

County Attorney Review. The procurement regulations require Using Departments to submit most contracts to the Office of the County Attorney for review and approval prior to executing the contract.²⁵ The regulation exempts the following purchases from this review:

- Direct purchases;
- Petty cash purchases;
- Emergency purchases;
- Credit and debit card purchases;
- Small purchases; and
- Delivery orders against existing contracts.

Purchases from Minority-Owned Businesses. Montgomery County law also addresses purchases from minority-owned businesses. Commonly referred to as the MFD law (Minority, Female and Disabled), the procurement laws and regulations require the County Government to purchase a percentage of its goods, services, and construction for contracts over \$5,000 from minority-owned

²¹ MCC § 11B-33A(e). Wage effective July 1, 2008 through June 30, 2009.

²² MCC § 11B-33A(b).

²³ COMCOR § 11B.00.01.10.10.1.

²⁴ COMCOR § 11B.00.01.10.10.1.1.

²⁵ COMCOR § 11B.00.01.03.3.3.1.

businesses.²⁶ The Office of Procurement's website explains that minority-owned businesses are at least 51% owned and managed by minority persons, including African American, Hispanic American, Asian American, Native American, Persons with Disabilities, and Women.

The MFD law and regulations establish procedures for implementing the MFD program, including requirements for Using Departments and contract monitors.²⁷ The MFD program currently has a sunset date of December 31, 2009.²⁸

Local Small Business Reserve Program. Montgomery County's Local Small Business Reserve Program (LSBRP) requires Using Departments to award at least 10 percent of their procurements to local small businesses.²⁹ The LSBRP law and regulations establish procedures and requirements for Using Departments to help implement the program. Like the MFD program, the LSBRP has a sunset date of December 31, 2009.

²⁶ MCC §§ 11B-57 to 11B-64; COMCOR §§ 11B.00.01.07.7.1 to 11B.00.01.07.7.10.

²⁷ See MCC § 11B-60(j); COMCOR § 11B.00.01.07.7.5.2.

²⁸ MCC § 11B-64.

²⁹ MCC § 11B-66.

CHAPTER III: OVERVIEW OF CONTRACTING IN DHHS' CHILDREN, YOUTH AND FAMILY SERVICES

The Department of Health and Human Services' Children, Youth and Family (CYF) Services service area provides an array of prevention, intervention, rehabilitative and after-care services to Montgomery County children and their families. CYF provides many of these services through contracts with community organizations.

This chapter outlines CYF's contracting process, describes the administration of contracts within CYF program areas, and provides an overview of CYF's FY08 contracts. The chapter is organized as follows:

- **Part A, Mission and Organizational Structure of Children, Youth and Family Service Area**, provides a brief overview of the CYF service area;
- **Part B, Number and Type of Contracts in Children, Youth and Family Services**, summarizes the number, type of, and funding for contracts managed by the six program areas in Children, Youth and Family Services; and
- **Part C, A Review of CYF's Service Contracts and Contract Administration Practices**, summarizes the administration practices of each CYF program area, and includes an overview of the contracts administered in FY08.

A. Mission and Organizational Structure of the Children Youth and Family (CYF) Service Area

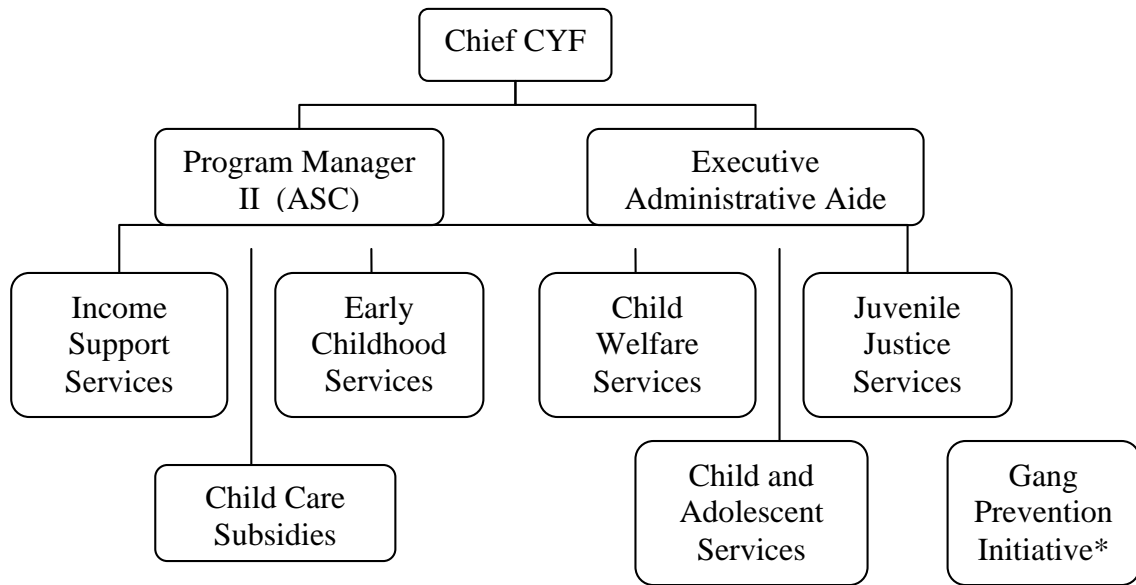
The mission of Children, Youth and Family (CYF) Services is to promote opportunities for children to grow up safe and healthy and for families and individuals to be self-sufficient. CYF provides protective, prevention, intervention, and treatment services for children and their families; and education, support and financial assistance for parents, caretakers and individuals.

In FY08, CYF's approved budget totaled \$65.5 million and 456 workyears. These resources fund personnel and service delivery across six different program areas plus the Gang Prevention Initiative. The program areas are:

- Income Support Services;
- Early Childhood Services;
- Child Welfare Services;
- Juvenile Justice Services;
- Child Care Subsidies; and
- Child and Adolescent Services.

The chart on the next page, provided by CYF, displays the organizational structure for the service area. This chart does not depict organizational changes the service area plans to make in FY09.

Exhibit 3-1. Children, Youth and Family Services Organizational Chart



*The Gang Prevention Initiative was previously under Juvenile Justice Services and, as of FY09, is an independent initiative program in CYF.

Source: DHHS, Children Youth and Family Services

Only five of CYF's six program areas administered contracts in FY08. The Child Care Subsidies program did not administer any contracts in FY08 and contracts under the Gang Prevention Initiative were administered as part of Juvenile Justice Services in FY08.

Contract Administration in Children, Youth and Family Services. Currently, 19 staff in the six program areas function as contract monitors and/or fiscal managers. The contract monitors typically have the following responsibilities: defining service needs; determining the type of procurement method for a contract; defining the scope of services, including contract payment terms and conditions; and establishing and maintaining a working relationship with the vendor throughout the contract term.

Additional CYF staff serve as fiscal managers, providing administrative assistance to the contract monitors and serving as the contact points for the CYF Administrative Service Coordinator. Typically, these staff review invoices and process vendor payments, and initiate contract actions at the request of the contract monitor. They may also provide on-going monitoring of contracts.

Drafting Contracts in Children, Youth and Family Services. After a vendor has been selected to provide services, the contract monitor in a program area contacts the vendor and works directly with them to:

- Determine the scope of services;
- Negotiate the budget and ensure accurate budget detail; and
- Develop performance measures to incorporate into the contract.

CYF's process for developing a contract involves the following steps:

1. **Contract Monitor:** Prepares an internal DHHS Contract Action Worksheet (CAW), which summarizes contract actions, and obtains the approval and signature of his/her direct supervisor.
2. **Contract Monitor:** Prepares a monitoring plan describing the timing and scope of contract monitoring and submits this paperwork in hard copy to the program area's fiscal manager.
3. **Program Area Fiscal Manager:** Reviews the packet of contract documents for completeness and accuracy, verifies the availability of funds, and checks the accuracy of account coding.
4. **Program Area Fiscal Manager:** Approves the CAW and forwards a hard copy to the service area's Administrative Services Coordinator (ASC).
5. **ASC:** Reviews the packet and enters information into a CYF contract spreadsheet of all contract actions maintained by the ASC.
6. **ASC:** Approves the CAW and forwards it to the Service Chief for approval.
7. **Service Chief:** Approves the CAW then submits it to DHHS' Contract Management Team (CMT).

Chapter IV provides a detailed description of DHHS' Contract Management Team. Chapter V provides a detailed description of the procedures for executing a contract.

Training of Contract Staff. Until recently, there was no mandatory training of CYF contract staff. Contract monitors were encouraged, but not required to take the Office of Human Resources' Contract Administration Course offered to all County employees. As of the time of this report, the Department of Health and Human Services has instituted a policy requiring all contract monitors to attend the County Contract Administration Course. Additionally, beginning in September 2008, DHHS and Procurement staff will begin a series of monthly mandatory hour long training session for all contract monitors on topics such as contract payments, monitoring, and contract amendments.

B. Number and Type of Contracts in Children, Youth and Family Services

This section summarizes the number, type of, and funding for contracts managed by five CYF program areas. Table 3-1 (on the next page) summarizes information about the 110 contracts administered by CYF in FY08. In sum, the data show:

- CYF administered 67 competitive contracts and 43 non-competitive contracts;
- The Early Childhood Services Program administered 41 contracts, the most of any program area;
- Community grants and RFPs together account for 86% of all contracts in CYF;
- Community grants account for 35% of all contracts in CYF, with Child and Adolescent Services administering 27 of the 37 total community grants;
- Only one program area, Child Welfare Services, used open solicitations and informal contracts; and
- RFPs are the most prevalent type of contract solicitation (51%), with Early Childhood Services administering the most RFPs (35).

Table 3-1. Number of CYF Contracts by Type and Program Area, FY08

	Child Welfare Services	Early Childhood Services	Income Support Services	Juvenile Justice Services	Child and Adolescent Services	Total	% of Total
Non-Competitive Contracts							
Community Grants	4	6	--	2	27	39	35%
Named In Grant	1	--	--	2	--	3	3%
Public Entity	--	--	--	--	1	1	1%
<i>Subtotal Non-Competitive</i>	5	5	0	4	28	43	39%
Competitive Contracts							
RFP	4	35	3	5	9	56	51%
Informal	1	--	--	--	--	1	1%
Open Solicitations	10	--	--	--	--	10	9%
<i>Subtotal Competitive</i>	15	35	3	5	9	67	61%
Total	20	41	3	9	37	110	100%

Source: DHHS, Children Youth and Family Services

Table 3-2 (on the next page) summarizes the FY08 contract funding for the CYF program areas. In FY08, the service area administered approximately \$17.3 million in contracts. In sum, the data show:

- 36% of contract value was awarded non-competitively and 64% of contract value was awarded through a competitive process;
- RFPs constituted the largest funding total at \$11.0 million (63%);
- Child and Adolescent Services had the highest level of contract funding with \$8.4 million; and
- Child and Adolescent Services also had the highest level of community grant funding at \$2.5 million, or over half of the funding for CYF community grants.

Table 3-2. Funding Value of CYF Contracts by Type and Program Area, FY08

	Child Welfare Services	Early Childhood Services	Income Support Services	Juvenile Justice Services	Child and Adolescent Services	Total	% of Total
Non-Competitive Contracts							
Community Grants	\$712,370	\$1,085,725	0	\$306,600	\$2,488,014	\$4,592,709	27%
Named In Grant	\$882,500	0	0	\$530,413	0	\$1,412,913	8%
Public Entity	0	0	0	0	\$185,000	\$185,000	1%
<i>Subtotal Non-Competitive</i>	<i>\$1,594,870</i>	<i>\$1,085,725</i>	<i>\$0</i>	<i>\$837,013</i>	<i>\$2,673,014</i>	<i>\$6,190,622</i>	<i>36%</i>
Competitive Contracts							
RFP	\$399,684	\$1,756,495	\$1,745,848	\$1,327,975	\$5,745,825	\$10,925,827	63%
Informal	\$24,500	0	0	0	0	\$24,500	0%
Open Solicitations	\$180,850	0	0	0	0	\$180,850	1%
<i>Subtotal Competitive</i>	<i>\$605,034</i>	<i>\$1,756,495</i>	<i>\$1,745,848</i>	<i>\$1,327,975</i>	<i>\$5,745,825</i>	<i>\$11,131,177</i>	<i>64%</i>
Total	\$2,199,904	\$2,842,220	\$1,745,848	\$2,164,988	\$8,418,839	\$17,321,799	100%

Source: DHHS, Children Youth and Family Services

C. A Review of CYF's Service Contracts and Contract Administration Practices by Program Area

At OLO's request, CYF provided an overview of its programs and services. This section describes the five CYF programs that administer contracts and the services they provide. It also describes the individual contracting practices in each CYF program area.

1. Child Welfare Services (CWS)

Child Welfare Services provides state- and federally-mandated programs for children who have been abused or neglected and also provides services to their families. In FY08, CWS's approved budget was \$19.2 million with 205.3 workyears. CWS provides the following services:

- Protective Services;
- Family Preservation Services;
- In-home services;
- Foster Care;
- Foster and Adoptive Parent Services;
- Adoption; and
- Child Assessment Center.

Inventory of Service Contracts. In FY08, CWS managed all or parts of 20 contracts valued at \$2.2 million, representing approximately 11.5% of the approved CWS budget. See Appendix B for a summary chart of CWS' contracts administered during FY08.

CWS's contracts address a variety of separate needs. Some service contracts retain licensed health professionals or health care providers to provide counseling and medical services to the children or family members seen by CWS social workers. Some contracts provide training or technical advice and support for CWS staff. Other contracts provide one-time services, such as a home study for an adoptive family.

Source Selection Methods. CWS used a variety of source selection and contract award methods to identify vendors. Specifically:

- Ten vendors received contracts through open solicitations (\$180,850);
- Four vendors received contracts through community grants (\$712,370);
- Four vendors received contracts through formal competitive solicitations (\$399,684);
- One vendor received a contract through an informal solicitation (\$24,500); and
- One vendor was named in a grant (\$882,500).

Contract Values. The contracts in CWS range in value from \$2,000 to \$882,500. The median value for all contracts is \$24,750. The median for non-competitively bid contracts is \$75,000 and the median for competitively bid contracts is \$22,606. The median value of the community grants is \$63,050.

Competitive and Non-Competitive Contract Awards. Seventy-five percent of CWS' FY08 contracts were competitively awarded, but represented only 28% of CWS' total contract funding (\$605,034). The remaining 25% of CWS' contracts were non-competitively awarded, representing 72% of CWS' total contract funding (\$1.6 million). In compliance with County regulations, the Office of Procurement conducted a cost price review for two of the five competitively awarded contracts; these contracts had values of \$168,900 and \$200,000 respectively.

Contract Administration Practices. CWS' Resource Section provides personnel and procurement administrative service supports for all CWS programs. Two positions in the Resource Section primarily oversee CWS' contract administration responsibilities – the Section Administrator and the Administrative Specialist:

- The Administrator manages contract acquisition planning; defines service needs and contract scope; manages the contractor selection processes, contract drafting, vendor negotiations, and contract award processes. The position also supervises the Administrative Specialist.
- The Administrative Specialist serves as the Contract Monitor for CWS. The position is also the fiscal manager and the contact point for all vendors. The Administrative Specialist processes all contract action worksheets, receives and reviews invoices, processes payments, and conducts contract monitoring site visits.
- CWS Program staff are responsible for requesting vendor services, processing client referrals, and notifying the Resource Section of vendor concerns.

According to the Administrator, three individuals in CWS must approve each contract action initiated by the Contract Monitor: the Administrative Specialist, the Administrator, and the Division Chief.

2. Early Childhood Services (ECS)

Early Childhood Services provides leadership for public and private programs serving young children and their families in Montgomery County. Its mission is to ensure that all children before birth to age five attain their full potential through quality early child care and nurturance, and participation in appropriate programs. In FY08, ECS' approved budget was \$4.8 million and 23.4 workyears. The ECS Program Area provides the following programs and services:

- The Infants and Toddlers Program;
- Child Care Resource and Referral Center;
- Parent Support Services;
- Public Engagement Campaign; and
- Child Care Quality Enhancement.

Inventory of Service Contracts. In FY08, ECS managed 41 contracts valued at \$2.8 million, representing approximately 55% of ECS' approved budget. See Appendix B for a summary chart of ECS' contracts administered during FY08.

The services provided by ECS contracts vary widely. Many of the contracts provide consulting services for the Infants and Toddler's Program. Some provide services for child care providers, early intervention services, and children's books.

Program Needs Assessment and Acquisition Planning. In 2000, the Council endorsed an itemized plan of action and spending to improve the County's early childhood system of services. This plan included program money, but did not include additional staff. The focus on Early Childhood issues coupled with the dynamic nature and ongoing research in ECS creates a set of service needs that are continually emerging or being redefined in response to new research findings.

More recently, public and private agency staff convened an Early Childhood Congress. This umbrella organization developed an Action Agenda as the next step in planning for a coordinated system of services. Among other Congress activities, an integrated budget workgroup will develop a proposed budget in an effort to align public and private priorities and identify gaps in services.

Source Selection Methods. The inventory shows vendors were identified through two procurement methods. Specifically:

- 22 vendors (35 contracts) received contracts through a formal RFP solicitation process (\$1.8 million); and
- Six vendors received contracts through community grants (\$1,085,725).

Contract Values. The contracts in ECS range in value from \$1,000 to \$507,014. The median value for all contracts was \$25,000. The median value of the RFPs was \$13,000 and the median value for community grants was \$124,910.

Competitive and Non-Competitive Contract Awards. Six contracts valued at \$1,085,725 were awarded non-competitively and 35 contracts, totaling \$1.8 million, were awarded competitively. In FY08, the median value for all contracts was \$31,250. The median value for competitively bid contracts was \$25,000 and the median value for non-competitive contracts was \$98,934. In compliance with County regulations, the Office of Procurement conducted a cost/price review for the eight competitively awarded contracts valued at over \$100,000.

Resources and Contract Administration. Eight people carry out various ECS contract management responsibilities. These responsibilities include market and procurement research, contract development, contract monitoring and fiscal activities such as reviewing and approving budgets and signing off on invoices.

The ECS Administrator reports that assignment of contract monitors is based on factors such as experience, current workload, and program expertise. Under the current arrangement, two people share the frontline technical and fiscal contract administration responsibilities for every contract ECS manages (a contract monitor and a fiscal manager). The contract development, vendor relations, contract monitoring and invoice review responsibilities are allocated among six program staff. All of the staff who serve as contract monitors carry out other substantial program responsibilities.

The allocation of program staff resources and service contracts is as follows:

- Three staff (a Manager III, an Administrative Specialist II, and one Program Manager II) administer the contracts for the Infants and Toddlers program;
- One Program Manager II manages 17 contracts for home visiting, parental support, early childhood mental health services, community-based prekindergarten services, and books;
- One Program Manager I manages the contracts for monitoring and maintenance of playground equipment, and after school programs; and
- One Program Specialist II, the child care Training Director, is responsible for assessing training outcomes and planning training for child care providers to meet licensing requirements for the State. Currently, she allocates a limited amount of time to managing the training contracts.

One staff person (Program Manager I) provides fiscal and administrative support to all of the program staff, including initiating contract action worksheets, checking invoices that have been reviewed by program staff, ensuring the availability of budgeted funds, and maintaining a database to track some payments associated with contracts. The ECS Administrator conducts a final review of all contract actions.

3. Income Support Services

The Income Support Services program in CYF determines low-income families' eligibility for various welfare programs, e.g., Temporary Cash Assistance, Food Stamps, and manages a required employment program for those who receive this assistance. The list of the federal and state funded programs and services that this program area provides includes:

- Employment Services – provides pre-employment and post-employment services to Temporary Cash Assistance customers determined work ready under Welfare Reform rules;
- Temporary Cash Assistance (TCA) – a federally funded program of time-limited cash benefits that promote self-sufficiency;
- Food Stamp Program – a federally funded program providing monthly benefits to eligible households to supplement their food budget;
- Maryland Medical Assistance or Medicaid (MA) – provides health care benefits to County residents;
- Temporary Disability Assistance Program (TDAP) – assists single adult residents who are temporarily disabled and cannot work due to either a physical or mental impairment; and
- Refugee Cash/Medical Assistance Program – provides benefits for financially needy refugees for the first eight months in the United States.

The FY08 Approved Budget for this program area is \$13.0 million with 134.5 work years.

Inventory of Service Contracts. Income Support Services manages one contract with Arbor Education, Inc. valued at \$1.6 million to provide pre- and post-employment services. As part of this contract, Income Support Services also provides funding for contracts with other vendors to provide supplemental services. These contracts are managed by the Special Needs Housing program area of DHHS. Currently, Income Support Services funds two additional contracts. See Appendix B for a summary of Income Support Services' contracts administered during FY08.

Program Needs Assessment and Acquisition Planning. In 2006, the Federal Deficit Reduction Act of 2005³⁰ was signed and put into law. The law included provisions to reauthorize Temporary Assistance to Needy Families (TANF). Montgomery County and its Department of Health and Human Services are required by the Deficit Reduction Act to provide ongoing Employment and Support Services. The County decided to continue to contract out these services.

Source Selection Methods. All vendors were identified through the RFP process.

Contract Values. The contract data show that the service contracts that Income Support Services administers display a range in contract values. The two contracts administered by Special Needs Housing are \$45,000 and \$69,491 and the largest contract in Income Support Services is over \$1.6 million.

³⁰ Public Law 109-171.

Competitive and Non-Competitive Contract Awards. The data shows all three contracts were awarded competitively. In compliance with County regulations, the Office of Procurement conducted a cost price review for the largest contract valued at over \$1.6 million.

Resources and Contract Administration. Currently, two staff – a Program Manager who was hired in November of 2007 and a MLS III – jointly carry out the program and fiscal contract management responsibilities. Previously, the MLS III was the primary contract manager for Income Support Services. The Program Manager reports that the current staffing pattern is a short-term arrangement to fully train her in all aspects of the contract. Eventually, all of the contract management responsibilities will be transferred to the Program Manager.

SPECIAL NOTE: The two remaining program areas – Juvenile Justice Services and Child and Adolescent Services – have a unique association; the program areas administer and monitor contracts with overlapping staff. There is one Program Manager III and one Administrative Specialist II who provide contract administration and monitoring services to both program areas. This will be described in more detail in the summary of each program area.

4. Juvenile Justice Services (JJS)

Juvenile Justice Services integrates the delivery of screening, assessment, case management, community services, and treatment services with the juvenile justice legal process. These services are targeted to youth who need services for substance abuse, youth who are in the juvenile justice system, and other at-risk youth. In FY08, Juvenile Justice Services had an approved budget of \$5.6 million and 39.5 workyears. In FY08, Juvenile Justice Services included:

- Gang Prevention Initiative (now an independent initiative);
- Juvenile Assessment Center;
- Screening and Assessment for Children and Adolescents; and
- Conservation Corps.

Inventory of Service Contracts. In FY08, Juvenile Justice Services managed all or parts of nine contracts valued at \$2.2 million, representing approximately 39% of JJS' approved FY08 budget. See Appendix B for a summary chart of JJS' contracts administered during FY08.

Juvenile Justice Services' contracts provide a variety of services, including substance abuse treatment services, mentoring services, and youth development programs.

Source Selection Methods. A variety of source selection and contract award methods were used to identify the vendors. Specifically:

- Five vendors received contracts through formal competitive solicitations (\$1.3 million);
- Two vendors were named in a grant (\$837,013); and
- Two vendors received contracts through community grants (\$306,600).

Contract Values. JJS' contracts range in value from \$54,450 to \$541,750. The median value for all contracts is \$225,232. The median for non-competitively bid contracts is \$306,600 and the median for competitively bid contracts is \$123,060.

Competitive and Non-Competitive Contract Awards. Five contracts valued at \$1.3 million (61%) were competitively awarded in FY08 through the RFP process. Four contracts valued at \$837,013 (39%) were non-competitively awarded. In compliance with County regulations, the Office of Procurement conducted a cost price review for the three competitively awarded contracts with a value of over \$100,000.

Contract Administration Practices. Currently, five CYF staff jointly carry out the program and fiscal contract management responsibilities for the Juvenile Justice program area. The following is a breakdown of responsibilities for contract monitoring in JJS:

- A Program Manager I serves as the contract monitor for most JJS' contracts;
- A Manager III supports contract operations, specifically providing subject matter expertise for certain contracts;
- A second Manager III serves as contract monitor for all contracts for the Gang Prevention Initiative;³¹
- A Therapist II monitors some contracts associated with adolescent sex offenders; and
- An Administrative Specialist II oversees the fiscal monitoring of all contracts in JJS, including tracking expenditures and encumbrances.

5. Child and Adolescent Services (CAS)

Child and Adolescent Services (CAS) provides services for single-parent families, fosters community empowerment, and provides family outreach to address the needs of children, youth, and their families. CAS also is responsible for the Linkages to Learning program, which is a partnership with MCPS and various private agencies to provide an array of integrated health, mental health, social, and education services at 29 MCPS elementary and middle school sites. Child and Adolescent Services also includes Regional Youth Service Centers. In FY08, CAS had an approved budget of \$8.8 million and 10.8 workyears.

Inventory of Service Contracts. In FY08, CAS managed all or parts of 37 contracts valued at \$8.4 million, representing about 95% of the approved CAS budget. See Appendix B for a summary chart of CAS' contracts administered during FY08.

The contracts under the Child and Adolescent Services program area provide a wide array of services. These services include after school programs, mentoring, mental health services, and wraparound services.

³¹ As of FY09, the Gang Prevention Initiative is an independent program in Children, Youth and Family Services and no longer under Juvenile Justice Services.

Source Selection Methods. A variety of source selection and contract award methods were used to identify CAS contract vendors. Specifically:

- 23 vendors (27 contracts) received contracts through community grants (\$2.5 million);
- Four vendors (nine contracts) were identified through a formal competitive solicitation (\$5.7 million); and
- One vendor received a public entity contract (\$185,000).

Contract Values. The contracts in CAS range in value from \$4,999 to \$800,000. The median value for all contracts is \$50,000. The median for non-competitively bid contracts is \$49,941 and the median for competitively bid contracts is \$99,663.

Competitive and Non-Competitive Contract Awards. In FY08, the nine competitively bid contracts were awarded through the RFP process. In compliance with County regulations, the Office of Procurement conducted a cost price review for the one competitively awarded contract with a value over \$100,000.

Contract Administration Practices. Currently, four Child and Adolescent Services staff administer and monitor contracts. Two of these staff members – a Program Manager I and an Administrative Specialist II – also undertake contract administration duties for the Juvenile Justice Services program area:

- The Administrative Specialist II provides fiscal monitoring for all CAS contracts.
- The Program Manager I serves as contract monitor for all contracts in Child and Adolescent Services, with the exception of contracts associated with the Linkages to Learning Program.
- Two part-time Program Manager I positions monitor and administer contracts for the Linkages to Learning Program.

CHAPTER IV: CONTRACTING AND INFORMATION MANAGEMENT SUPPORT FROM OTHER COUNTY DEPARTMENTS

This Chapter describes the County Government institutional structure and information management systems that support Children, Youth and Family Services' contract monitors' and fiscal managers' activities to execute contracts and pay vendors (described in Chapter III). CYF's contract monitoring and fiscal duties are part of an interdepartmental sequence of administrative actions that ensure that CYF's purchasing and payment actions:

- Comply with the County's procurement regulations;
- Comply with internal controls designed to ensure the quality and integrity of the County's purchasing, contracting, and payment activities; and
- Align with the County's budgeting and financial management and reporting functions.

The chapter is organized as follows:

- **Part A, County Government Contracting and Payment Activities**, provides an overview of other County Government entities that have a role in contract execution and payment including:
 - Contract Management Team (DHHS' Office of the Chief Operating Officer);
 - Fiscal Team (DHHS' Office of the Chief Operating Officer);
 - Office of Procurement (Department of General Services);
 - Division of Risk Management (Department of Finance);
 - Office of the County Attorney;
 - Accounts Payable (Department of Finance); and
 - County Executive and County Council.
- **Part B, DHHS' Information Management Systems**, provides an overview of DHHS' technology management.

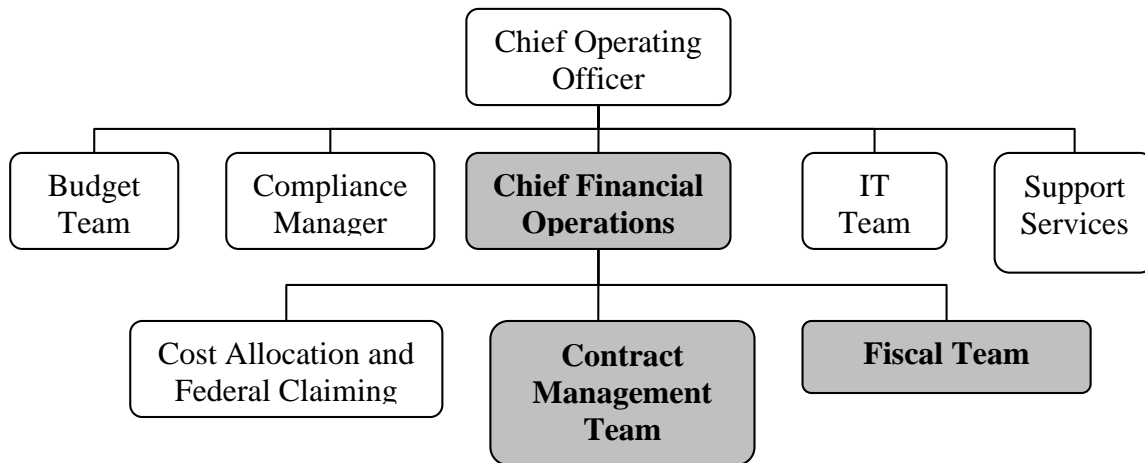
A. County Government Contracting and Payment Activities

The countywide institutional structure that supports CYF's purchasing and payment activities consists of seven organizational units spread across four departments and the Executive and Legislative branches of government. Two of these units – the Contract Management Team and the Fiscal Team – are located within DHHS, and five of these units are located in departments outside of DHHS.

1. Department of Health and Human Services

DHHS' Contract Management Team (CMT) and the Fiscal Team provide contract and payment services to support the operations of all five DHHS service areas. The exhibit below shows the location of these units within the Office of the Chief Operating Officer. Both of these units are located in the Office's Financial Operations section.

Exhibit 4-1. Organizational Chart of the Office of the Chief Operating Officer, DHHS



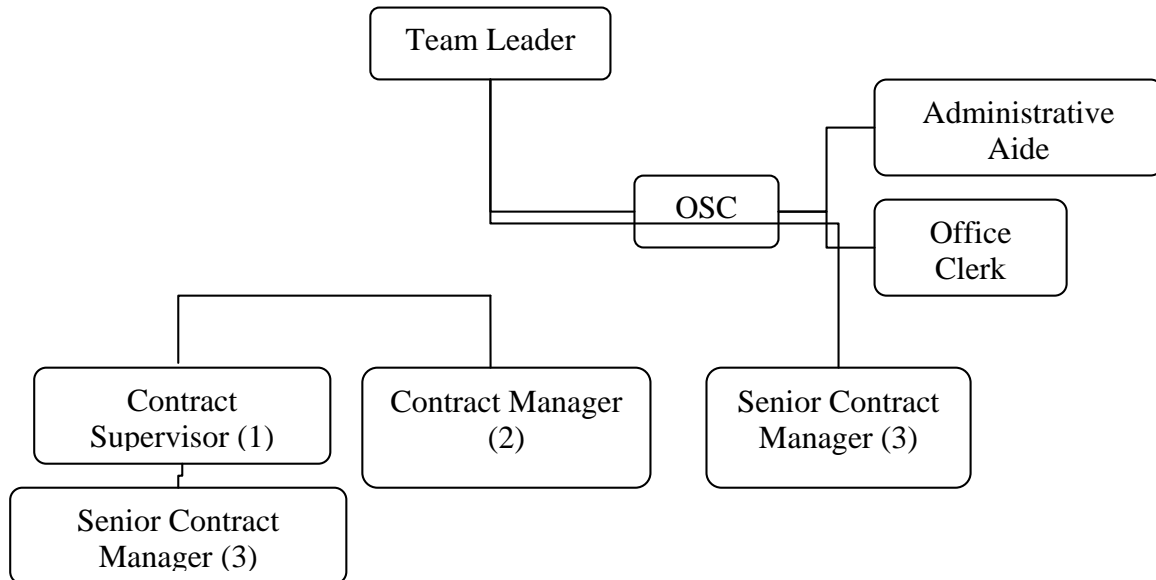
Source: Department of Health and Human Services

a. DHHS Contract Management Team (CMT)

The Contract Management Team provides technical assistance and manages document packaging and work flow for all of DHHS' contract documents and related contract actions. The CMT staff's two core responsibilities are to simultaneously provide technical advice to service area staff about the contracting process and to serve as DHHS' primary liaison to the County Government's procurement and payment network outside of DHHS – including the Office of Procurement, the Office of the County Attorney, and the Division of Risk Management in the Department of Finance. The CMT currently has 11 merit staff (Team Leader, Contract Supervisor, six Senior Contract Managers, two Contract Managers, and Office Services Coordinator) directly involved in the contracting process. One of these Senior Contract Managers has the primary responsibility for monitoring related activities. In addition, there is an Administrative Aide and an Office Clerk assigned to CMT. These individuals do not provide direct contract related support to CMT but do provide general administrative support to CMT and the Fiscal Team. CMT also utilizes the services of 2-3 contract personnel (brokers) for contract related activities.

The exhibit on the next page displays CMT's current organizational structure. Two of the Senior Contract Managers retired at the end of FY08; both of these positions are expected to be advertised and filled in FY09. The Council approved funding for one new position in FY09, an Administrative Specialist II position. The OSC position was not filled until Spring of 2008. The Team Leader provided (and continues) to provide direct supervision to the Administrative Aide and the Office Clerk. As these two positions do not provide direct contract related support, effective September 2nd supervision for the Administrative Aide and the Office clerk will be assigned to the Chief, Financial Operations.

Exhibit 4-2. Organizational Chart of the Contract Management Team, DHHS, FY08



Source: Department of Health and Human Services

CMT Workload. CMT's workload is generated in response to external demands for procurement and contracting actions. The primary drivers of CMT's workload are:

- Formal solicitations initiated by service area staff, County Executive and Council initiatives;
- Non-competitive contracts generated by County Executive and County Council non-competitive grant awards (community grants), and
- Actions to keep existing contracts current and in force, from both anticipated and unplanned contract modifications or amendments.

In addition, staff provide advice and technical assistance to service area staff and compile DHHS' reports for the Local Small Business Reserve Program.

CMT Recordkeeping. CMT maintains an official set of contract document files and a set of unofficial working files and tracks the status of contract documents with an Access database. In the summer of 2006, CMT established an online set of scanned contract files and documents that makes key contract documents more easily available to both service area and CMT staff.

For each contract, DHHS maintains a Contract Action Worksheet (CAW) to document and track all contract actions for that particular contract. When a contract is awarded, the program area contract monitor completes a CAW and forwards it to the CMT to begin the contract execution process. During the past year, the CMT has updated the CAW form. A sample of the new Contract Action Worksheet is in Appendix C.

Institutional Support. The Office of Procurement provides standard documentation paperwork for numerous contract actions on the County Intranet System – referred to as PMMDs.³² PMMD documents can be found on the DGS website and they provide guidance and templates for many contract actions, including checklists for various source selection methods, general conditions of contract between County and contractor, and price and wage information. CMT staff report that they frequently use the following PMMDs:

- PMMD 77, Increase in Maximum Compensation;
- PMMD 71, Option Contract Extension;
- PMMD 78, Contract Term Extension with No Additional Compensation;
- PMMD 160, Inflationary Adjustment; and
- PMMD 129 Option Contract Extension without Maximum Compensation.

Contract Volume in Contract Management Team. According to the Local Small Business Reserve Program Report, DHHS executed 1,016 procurement transactions valued at \$5,000 or more in FY07. The total value of these actions was \$105.1 million. Table 4-1 summarizes data from DHHS' LSBRP reports, including the number and value of DHHS procurement transactions for FY07. The FY08 data was not available as of this writing.

Table 4-1. Summary of DHHS Procurement Transactions, FY07

Type of Transaction	FY07		
	# of Transactions	Value (000s)	% of Total
Procurement with a registered LSBRP vendor	28	\$636	1%
Procurement for a public entity or emergency	46	\$2,418	2%
Procurement with a non-registered LSBRP vendor	59	\$3,678	4%
Procurement without a qualified LSBRP vendor	26	\$5,860	6%
Procurement that conflicts with a law or a grant requirement	198	\$11,494	11%
Procurement with a pre-existing contract	206	\$15,011	14%
Procurement with a non-competitive contract	453	\$65,981	63%
Total	1,016	\$105,077	100%

Source: DHHS Local Small Business Reserve Program Reports, FY07

³² PMMD stands for “Purchasing and Materials Management Division” and refers to the time when the Office of Procurement was a division of the Office of Management and Budget.

b. DHHS Fiscal Team

The DHHS Fiscal Team provides budgetary and fiscal oversight for vendor payment requests generated by contract monitors in all DHHS service areas. DHHS' Fiscal Team's core responsibilities are to review requisitions generated by CMT to create pre-encumbrances and to review/process vendor invoices submitted for payment. Two merit staff positions have primary responsibility for these duties although several other fiscal staff are trained in various functions relating to pre-encumbrances and vendor payments. These individuals are assigned to contracting related duties during peak workload times, such as renewals or to act as back-ups when staff are out of the office. The fiscal team also has 1-2 contractors involved in the contract payment process.

Requisition Review. CMT staff fill out a requisition checklist form to capture the data that the Fiscal Team needs to create a pre-encumbrance before a contract is executed. The requisition checklist identifies whether the request is for a new contract, a delivery order or a contract amendment. If the request is an amendment, the requisition checklist identifies the contract change – either in compensation, term, or scope of services.

For every requisition, DHHS' Fiscal Team staff verifies that the budget codes are accurate and that the amount of the requisition matches the amount of the budget. After approving the requisition and pre-encumbering funds, the Fiscal Team notifies CMT so that CMT can forward the appropriate paperwork to the Office of Procurement and obtain a purchase order. A purchase order must be in place before the vendor begins service delivery.

The Fiscal Team staff identified the following as common sources for errors: errors due to mixed sources of funding, a mismatch between the loaded budget amount and the requisition, and problems created when a grant has not been loaded or has been loaded to the wrong index code.

Review of Vendor Invoices. The DHHS Fiscal Team reviews vendor invoices submitted for payments. County regulations require that each vendor invoice have an address that matches the address in the vendor database, a contract number and a purchase order number. After vendor invoices are submitted and reviewed by DHHS service area contract monitors and fiscal managers, they are forwarded to the DHHS Fiscal Team for review. Fiscal Team staff verify that the contract number and purchase order numbers are valid, that the charges add up, and that the invoice has staff and vendor signatures. The DHHS Fiscal Team leader estimates the error rate for vendor invoices ranges from 8 to 10%.

DHHS Fiscal Team staff, with approval authority, are authorized to approve payments up to \$5,000 without review. Invoices over \$5,000 are forwarded to the Department of Finance for review and payment. County contracts require payment in 30 days. DHHS' Fiscal Team's target for forwarding invoices to the Department of Finance for payment is five days from receipt of an invoice.

2. Other County Offices and Departments

Numerous other County departments and offices have significant roles in the contracting process. This section describes these roles and responsibilities.

a. Office of Procurement (Department of General Services)

The Office of Procurement ensures that Using Departments comply with the County's procurement regulations that govern solicitation, contract development, contract terms and conditions, and contract modifications and amendments.

Procurement staff are organized into two sections: Procurement Operations and Procurement Services. The Procurement Operations section has two program teams: one specializes in professional services contracts and the other specializes in commodity contracts. Within each team specialists work directly with Using Department staff to assist in and coordinate procurement activities. The Procurement Services section provides IT support, cost/price analysis, and oversees MFD compliance.

Council approved the creation of a Department of General Services (DGS) beginning in FY09. As a result of this reorganization, the Office of Procurement has maintained its name but is no longer a separate Office within the Executive branch. Instead, it is one of five sections within the DGS. The Director of the new DGS is the previous Director of the Office of Procurement.

In FY08, the Office of Procurement had 29.9 workyears: 3.0 workyears in Administration; 2.0 workyears in the Minority, Female, and Disabled Persons Procurement; 2.0 workyears in Automation and Records Management; and 22.9 workyears in Procurement of Goods and Services. Until recently, two specialists in the Procurement Operations section were assigned to oversee DHHS contracts. One specialist subsequently transferred to the DHHS Contract Management Team.

Workload. Like DHHS' Contract Management Team, the Office of Procurement's workload is generated by externally-created demands for procurement and contracting actions. The primary drivers of the Office's workload are:

- Formal solicitations initiated by service area staff and County Executive and Council initiatives;
- Non-competitive contracts generated by County Executive and County Council non-competitive grant awards; and
- Actions to keep existing contracts current and in force.

The core responsibilities of staff in procurement are to advertise solicitations, post notices of intent for contract awards, manage the protest process, ensure compliance with MFD requirements, and perform cost/price analysis. The responsibilities relevant to this report are described below.

Maintenance of Records. The Procurement law requires the Office of Procurement to maintain a record for five years of any:

- Non-competitive contract award;
- Emergency procurement;
- Contract modification exceeding \$25,000;
- Public entity contract; or
- Bridge contract.³³

The records must include the contractor's name; the amount of each contract or contract modification; and a listing of the goods, services, or construction procured under each contract or each contract modification. A copy of these records must be submitted annually to the County Council. The Office of Procurement also maintains the RAPID system – a fee-based web application that enables subscribers to review, access, and download up-to date-procurement information.

Certification of Vendors as Responsive and Responsible. During the contracting process, the Director of Procurement must determine whether the vendor is responsive and responsible. “Responsiveness” is the determination of whether a vendor’s bid or proposal matches all material parts of a solicitation. “Responsibility” involves a review of different characteristics of a specific vendor, including reputation, past performance, and business and financial capability.

Compliance with the County’s Minority, Female and Disabled Persons Program (MFD) requirements. The Procurement Regulations require the Director of Procurement “to actively and aggressively recruit certified MFD owned businesses to provide goods, construction, and services, including professional services.”³⁴ County regulations set a goal of 20 percent MFD participation for all contracts valued over \$5,000 for the term of the contract.

After the Office of Procurement has posted a contract award, the Procurement specialist transmits the compliance detail sheet with the proposed awardee to the MFD administrator in the Office of Procurement, who mails out a package of information to the proposed awardee, including an MFD Subcontractor Performance Plan. The Plan gives a primary contractor three options for complying with the County’s MFD requirement. Specifically, a primary contractor can elect to:

- Identify the MFD businesses that will be used and specify the services, dollar amounts and percent of the contract cost,
- Request a partial waiver, or
- Request a full waiver.

The MFD administrator works with a vendor and the Using Department to complete the plan during the contract negotiation phase.

³³ MCC § 11B-32.

³⁴ COMCOR § 11B.00.01.07.2.1.

Cost Price Analysis. When entering into a contract, the Procurement Regulations require the Director of Procurement to determine that the price paid for goods and services by the County are fair and reasonable.³⁵ The Director of Procurement may require a Using Department to follow contract cost and pricing principles and, for any competitively-negotiated contract that exceeds \$100,000 for the term of the contract, vendors must submit cost and pricing data.³⁶

A Using Department must conduct a price analysis before recommending a contract award to determine whether the price is fair and reasonable using one or more of the following factors:

- The prior award price for the goods and services being purchased;
- Prices from other offerors who responded to the solicitation;
- Cost estimates received before the solicitation responses;
- Commercial market prices and costs;
- Prices paid by other public entities for similar goods and services; and
- The results of a cost analysis that identifies separate components of the offer and allocates costs among those components.³⁷

A Procurement cost/price specialist reviews the proposals of the three highest ranked vendors, looks at the proposed services and the proposed costs, and makes a determination to accept or reject the cost/price data provided by the vendor.

Alternative Certification Procedure for County Council Non-Competitive Contract Awards. The Procurement Regulations exempt non-competitive contracts awarded through a Council grant from the requirement for a cost/price analysis if a Using Department follows an alternative certification method established in the Procurement Regulations.³⁸ The Using Department must certify to the County Council, the Office of Management and Budget, and the Director that:

- The proposed grantee would qualify as a responsible offeror;
- The grant amount is fair and reasonable after making a price analysis; and
- The services, goods, and construction funded by the grant award are in the public interest.³⁹

For County Council grants, DHHS provides a statement for County Council resolution that non-competitive award prices are fair and reasonable. DHHS may base this statement on (1) what DHHS is paying for similar services or (2) based on knowledge of the industry, what the services should cost. All Council grant contracts contain the following statement: “In light of the Council Grants review process, we consider the vendor to be responsible.”

³⁵ COMCOR §§ 11B.00.01.10.1.

³⁶ COMCOR §§ 11B.00.01.10.1; 11B.00.01.10.3.1.

³⁷ COMCOR § 11B.00.01.10.1.1.

³⁸ See COMCOR §§ 11B.00.01.10.3.5.4; 11B.00.01.17.3.2.

³⁹ COMCOR § 11B.00.01.17.3.2.

Local Small Business Reserve Program. The Local Small Business Reserve Program (LSBRP) was created to ensure that all County departments set aside (with specified exceptions), a minimum of 10 percent of procurements for local small businesses.

The 10 percent LSBRP requirement does not apply to:

- Contracts to which the Procurement Regulation do not apply because of a conflict with a State, federal, or local law or a grant requirement;
- Preexisting contracts or extension(s) of a preexisting, multi-year, contract executed by the County;
- Non-competitive contracts;
- Public entity or emergency procurements;
- Any waiver made under law by the Chief Administrative Officer;
- Any procurement where no Local Small Business is deemed qualified or able to perform the contract as determined by the head of the Using Department; or
- Any single procurement that is estimated to exceed \$10 million.⁴⁰

Each Using Department is responsible for ensuring compliance with program regulations and meeting its 10 percent LSBRP requirement. The Office of Procurement took over administration of the LSBRP from the Department of Economic Development in January 2008.

Review and Execution of Contracts and Notices to Proceed. After a contract has been signed by the Using Department, the County Attorney, and the vendor; the Office of Procurement reviews the contract. Procurement then executes the contract and notifies DHHS' Contract Management Team to issue a Notice to Proceed. The authority required to approve a contract and issue a Notice to Proceed varies by type and value of the contract.

Contract Amendments, Modifications, and Extensions. The Office of Procurement is responsible for administering changes to current contracts. Contract modifications may be initiated by the contractor, the contracting officer, or the contract administrator. The Director of Procurement reviews proposed contract modifications. If the value of a proposed contract modification exceeds the threshold for an IFB or RFP, the Director must refer the contract modification to the Contract Review Committee.

b. Division of Risk Management (Department of Finance)

The Division of Risk Management in the Department of Finance administers the County's Self-Insurance Fund. All County contracts include insurance requirements to transfer risk to the vendor and to provide security to back up the indemnification clause included in the general terms and conditions of the contract. The Division of Risk Management in the Department of Finance reviews all contracts for insurance provisions.

⁴⁰ COMCOR § 11B.65.01.04(c).

Risk Management staff advise Using Department staff about insurance requirements at two points in a procurement process. During the solicitation development phase, Risk Management advises Using Departments about requirements to include in the bid packages. During the contract negotiation phase, Risk Management reviews certificates of insurance provided by contractors.

Insurance Requirements in DHHS Contracts. In DHHS, a contract manager from the Contract Management Team submits contract information to the Division of Risk Management, including proposed scopes of service, specific information about services, estimated contract amounts, the length of proposed contracts, and RFP numbers. In response, Risk Management provides the Using Department and the Office of Procurement written memoranda with mandatory insurance requirements and dollar limits. The Using Department incorporates these mandatory insurance requirements into proposed contracts as exhibits or attachments.

Certificate of Insurance Review. During the contract negotiation process, the Using Department requests a certificate of insurance from the vendor and forwards it to the Division of Risk Management. The Division of Risk Management reviews the certificate to make sure the vendor's insurance complies with the requirements established in the solicitation. Risk Management reviews certificates of insurance within 24 hours of submission by the Using Department.

c. Office of the County Attorney

During the contract negotiation and execution phase, the Office of the County Attorney reviews contracts drafted by Using Departments for form and legality. The Office of the County Attorney also advises the Using Department or the Office of Procurement during other phases of the process on an as-needed basis. The Office of the County Attorney periodically offers training sessions for Using Departments about contract drafting.

Contract Review. The Office of the County Attorney has a written commitment to review draft contracts from Using Departments within 10 calendar days. The Office tracks its review times and reports that, in practice, its review time averages three or four days.

A paralegal in the Office conducts an initial review of a contract and then forwards it to an attorney for final review and approval. The focus of the County Attorney's review is to ensure the contract defines the services being purchased, establishes how the County will know the services have been received, identifies the basis for compensation, and defines the amount and payment schedule.

d. Accounts Payable (Department of Finance)

The Accounts Payable Section of the Controller Division in the Department of Finance is responsible for the payment of vendor invoices. Under County law, it is County policy to make a payment under a contract within 30 days after payment is due under a contract or after the contract administrator receives a proper invoice.⁴¹

⁴¹ MCC § 11B-34(b).

The County uses the Advanced Purchasing and Inventory Control System (ADPICS) and the Financial Administration and Management Information System (FAMIS), which are an online, integrated financial management system. ADPICS is a purchasing and accounts payable system used to create requisitions, purchase orders, and issue vouchers for payments. FAMIS maintains accounting information, including department budgets, fund balances, and department expenditures and is the system responsible for “cutting the checks.” Using Departments cannot directly post to FAMIS.

Invoice Payment Process – Purchase Orders. Processing invoices with purchase orders for payment requires both the ADPICS and FAMIS systems. To begin the process, a vendor sends an invoice to its DHHS contract monitor. The contract monitor reviews the invoice for accuracy and (1) if the invoice is correct, sends it to DHHS’ Fiscal Team; or (2) if the invoice is incorrect, resolves any issues, requests an updated invoice from the vendor, and sends it to the Fiscal Team. A Fiscal Team member enters and posts the invoice into the ADPICS system. There are two paths the invoice can follow.

Invoices for \$5,000 or Less. If an invoice is for \$5,000 or less, only DHHS Fiscal team approval is needed to pay the invoice. The Fiscal Team enter numerous points of invoice data into ADPICS, including the purchase order number, invoice number, vendor address, amount of invoice and due date. The due date is the date the department requests as the date of payment.

Once the invoice is posted on ADPICS, ADPICS automatically generates a voucher based on the purchase order number and posts it into FAMIS. Using Department staff and Accounts Payable staff then review the vouchers in FAMIS. The FAMIS system will generate a payment on the date requested by DHHS (the due date in the system).

Invoices Greater than \$5,000. If an invoice is for an amount greater than \$5,000, the DHHS Fiscal Team sends a hard copy of the invoice to Accounts Payable and enters and posts the invoice into ADPICS. If an invoice is for less than \$25,000, an Accounts Payable clerk reviews and approves the invoice. If an invoice is for \$25,000 or more, an Accounts Payable manager reviews and approves the invoice. An Accounts Payable clerk posts approved invoices for payment on the due date identified by a department. If an Accounts Payable clerk or manager rejects an invoice for any reason, the invoice is returned to the initiator.

Direct Vouchers. Departments can also request payment through the use of direct vouchers. A direct voucher is a “request to pay” entered and posted in ADPICS by a Using Department. Direct vouchers are used for purchases approved outside the ADPICS procurement process and usually include:

- Small one time purchases;
- Organizations that have authority to bypass the purchase order process; and
- Expenditures exempt by law from the purchase order process.

A direct voucher is not the result of an established purchase order or direct purchase order and does not require an invoice submission.

Using Departments can approve direct vouchers for \$5,000 or less in ADPICS, which then post directly to FAMIS. Direct Vouchers for more than \$5,000 require approval by Accounts Payable prior to posting in FAMIS.

3. The County Executive and County Council

County law authorizes the County Council to make non-competitive grant awards.⁴² In practice, the County Council administers an annual community grants program that is funded as part of the non-competitive contract award list. The vehicle for appropriating the funding for these awards is the Non-Competitive Award Designation List (“Designation List”), which is an itemized list of organizations, services, and award amounts grouped by the County Government department that will administer the contract. The Council adopts the Designation List as an attachment to the Operating Budget Resolution.

County Council. The Council action of “identifying a vendor in a resolution approved by the Council” accomplishes two things:

- It allows each vendor to satisfy one of the specific circumstances that justifies the award of a contract without prior notice and without competition; and
- It initiates the process to award a non-competitive contract to each vendor on the list.

The grant awards assigned to DHHS for contract development and execution routinely represent a disproportionate number of the total number and value of all non-competitive contract awards.

Timing of Contract Development. The Council identifies organizations that will receive grants when it approves budget resolutions at the end of May. The Council funds the contracts on the Designation List for the next fiscal year beginning the following July 1. This creates a period of five or six weeks, from the end of May through June 30, for development and execution of contracts, and which coincides with the end-of-year processing and renewal activities for existing contracts.

County Executive. The County Executive establishes the parameters for soliciting and nominating recipients for Executive community grants. The process generally occurs during the County’s annual budget development and often, the Executive will include community grant awardees in the Recommended Budget.

B. DHHS’ Information Management Systems

Different DHHS sections maintain numerous databases and filing systems. This section describes the Departments’ contract data management.

⁴² MCC § 11B-14(a).

Data Management. The Contract Management Team maintains the official set of contract document files and a set of unofficial working files with hard copies of contract documents. CMT uses a Microsoft Access database to track the status of contract documents and in 2006, the CMT established an online set of scanned contract files and key documents.

Hard copies of contract documents are never moved out of the official filing system; CMT staff use documents from the unofficial files to process contract actions. CMT maintain contract monitoring plans and reports in files that are separate from the official files.

DHHS documents and tracks work requests for contract actions from service area staff on contract action worksheets. In addition to the CMT official files, contract monitors in each of the program areas maintain individual contract files, including contract solicitation, execution, and monitoring information.

Information Technology. For several years prior to 2006 years, DHHS used a Microsoft Access database to track contracts and contract actions. In 2002, a DHHS Fiscal Team employee procured a J.D. Edwards Financial System to track fiscal actions within DHHS. The J.D. Edwards system was intended to replace a DHHS fiscal management system that connected to a State system. Among numerous other functions, the system was designed to allow tracking of contracting actions, and in 2006, the JDE system replaced the Access data base used to track contract actions,

The DHHS system administrator subsequently wrote custom code for approximately 90% of the J.D. Edwards system but produced no documentation on the custom coding. The few DHHS staff with knowledge of the coding have since left the department. Consequently, no current DHHS staff in Fiscal, CMT or IT have full knowledge of the system.

DHHS staff report that the system currently is unstable and incomplete. Staff report that the system has very little flexibility. For example, data input errors cannot be corrected in the middle of a process, but require staff to input corrected data from the beginning of a sequence. The module put in place to track contract actions was never fully implemented and required many manual work-arounds to complete tasks. The system was also limited in its capacity to include budget and other critical review steps as part of the approval path. In the spring of 2008, DHHS made the decision to discontinue the use of the JDE system and return to a paper process for contract action worksheets and reactivated the Access data base previously used to track actions.

Current Information Technology Practices. DHHS is currently deconstructing the J.D. Edwards system and scaling use of the system down to core functions that cannot be performed by another system. The Department has returned to the use of Microsoft Access for many business functions, including the database of contracting actions. The CMT and DHHS program areas have developed a number of hard copy tracking worksheets and DHHS' Information Technology Team is working to improve the different databases. DHHS' Financial Operations Team is also working to convert DHHS' current scanning technology to the County standard technology.

Future Information Technology Practices. DHHS acknowledges a need for automation of many of its business functions, including contract execution and monitoring. DHHS is very active in the County's development of the Enterprise Resources Planning (ERP) initiative to integrate Countywide business practices. The first phase of ERP implementation is scheduled for January 2009. The e-Procurement portion of the ERP is tentatively scheduled for the second phase of implementation, with a timeframe still to be determined.

CHAPTER V: CONTRACT EXECUTION PROCESS MAPS AND PROCESSING TIMES

This chapter examines Children, Youth and Family Services' processes for and timing of two contract administration tasks – contract executions and vendor payments – in order to show the numerous steps, staff effort, and time involved in performing these tasks. For each task, this chapter presents a set of process maps showing the sequence of transactions carried out by County Government staff involved in the process. These maps are accompanied by a description of each process and an analysis of data on the time taken to perform each process.

This chapter is organized as follows:

- **Part A, Sample Dataset and Methodology**, explains the methodology of data collection that OLO used throughout the course of the study;
- **Part B, Process Maps and Elapsed Time Results**, describes the processing steps in the execution of a contract for open solicitations, requests for proposal, and community grants; displays process maps for the execution of those types of contracts; and analyzes the processing times for FY08 new contracts in Children, Youth and Family Services; and
- **Part C, Other Source Selection Methods**, provides a brief overview of other types of contracts, including informal solicitations, public entity contracts, emergency contracts, and named-in-a-grant.

A. Sample Dataset and Methodology

For the elapsed time analysis, OLO examined data for the 29 *new* contracts that CYF executed in FY08 and included contracts from both competitive and non-competitive solicitations. Specifically:

- CYF executed 18 contracts through competitive solicitations process – 13 contracts based on a formal RFP and five contracts based on open solicitations.
- CYF executed 11 contracts that were awarded non-competitively – ten contracts based on non-competitive community grant awards and one contract from a named-in-a-grant award.

OLO assembled data from multiple sources. At OLO's request, the CMT Team Leader provided the list of contracts and vendors with new contracts executed in FY08. For RFPs and open solicitations, OLO reviewed scanned contracts and supporting documents for relevant process dates and the Contract Management Team provided any outstanding dates. For RFPs, the Office of Procurement provided dates for the Notice of Intent to Award. For community grants, OLO used a database of processing dates maintained by the CMT Team Leader.

Contract Processing Data Overview. Table 5-1 summarizes CYF data for the 28⁴³ new contracts awarded in FY08. It is important to note that OLO used different sets of dates for different types of contracts. On the next page, the note below the table explains the dates that were used to calculate elapsed time. The data show that:

- The average number of workdays to execute a contract was 93 days for a RFP, 84 days for an open solicitation, and 114 days for a community grant;
- The timeframe to execute a contract ranged from 46 to 137 days for RFPs; 60 to 115 days for open solicitations; and 87 to 167 days for community grants;
- The average number of workdays to make a payment on a contract was 45 days for RFPs, 47 days for open solicitations, and 82 days for community grants; and
- The timeframe to make a payment ranged from 13 to 94 days for RFPs; 17 to 88 days for open solicitations; and 38 to 130 days for community grants.

Table 5-1. Summary of Elapsed Time Data for New FY08 Children, Youth and Family Services Contracts

Contract	Dollar Value	Elapsed Time for Contract Execution (Days)*	Elapsed Time for Vendor Payments (Days)**
Request for Proposal			
Arbor Education and Training, LLC	\$1,631,357	137	53
Banks, Cheryl L.	\$20,000	46	49
Booksource, Inc., The	TBD	79	No Payment
Borders Group, Inc.	TBD	79	No Payment
Community Services for Autistic Adults and Children, Inc.	\$100,000	57	51
Hanek, Diane	\$12,000	108	13
JEFCO Sales, Inc. d/b/a Apple Books	TBD	79	No Payment
Lakeshore Equipment Company, Inc.	TBD	79	No Payment
List, Lynne	\$8,840	106	18
Lourie Center for Infants & Young Children	\$100,000	64	59
Lourie Center for Infants & Young Children	\$38,760	106	No Payment
Mobile Medical Care, Inc.	\$173,000	130	94
Norwood Enterprises, LLC.	\$8,992	139	23
Average		93	45

⁴³ OLO did not evaluate the process times for the named-in-a-grant contract.

Table 5-1. Summary of Elapsed Time Data for New FY08 Children, Youth and Family Services Contracts (Continued)

Contract	Dollar Value	Elapsed Time for Contract Execution (Days)*	Elapsed Time for Vendor Payments (Days)**
Open Solicitations			
Casper, Jane	\$10,080	60	17
Holley & Associates, Inc.	\$5,000	80	88
McLinden, Lisa LGSW/MSW	\$12,750	NA	NA
Reid, LaVoyce Brice	\$7,000	115	43
Vera j. Hilliard Associates	\$106,000	79	40
Average		83.5	47
Community Grants			
CentroNia, Inc.	\$250,000	106	77
Galway Elementary PTA, Inc.	\$8,890	109	No Payment
Housing Opportunities Community Partners, Inc.	\$46,000	112	115
Institute for Family Development, Inc. dba Centro Familia	\$70,000	94	40
Latin American Youth Center, Inc.	\$15,000	87	99
Metropolitan Center for Assault Prevention	\$75,000	94	No Payment
Montgomery County Collaboration Council for Children, Youth and Families	\$100,000	124	130
Montgomery County Community Partnership, Inc.	\$38,420	167	80
Thor Teams, Inc.	\$30,000	138	38
Washington Youth Foundation, Inc.	\$45,000	112	73
Average		114.3	81.5

* The following dates were used to calculate the execution timeframe:

RFPs – Number of workdays from Notice of Intent to Award until Notice to Proceed Issued

Open Solicitations – Number of workdays from date contract signed by Vendor until Notice to Proceed Issued

Community Grants – Number of workdays from date of award to Notice to Proceed Issued

** The following dates were used to calculate the payment timeframe:

RFPs – Number of workdays from Notice to Proceed Issued until First Payment

Open Solicitations – Number of workdays from date contract signed by Vendor until First Payment

Community Grants – Number of workdays from date Notice to Proceed issued until First Payment

Source: Contract Management Team, June 2008

B. Process Maps and Elapsed Time Results

This section presents three process maps showing the sequence of activities required to produce legally valid contracts. Legally valid contracts bind a vendor to an explicit set of services, terms and conditions; set cost and payment terms and invoicing frequency; and establish reporting requirements and/or performance measures. OLO developed three separate maps to show the differences among awards resulting from an open solicitation, a formal RFP, and a non-competitive community grant award.

1. Open Solicitations

An open solicitation is a procurement method designed to attract pools of vendors willing to sign contracts with a uniform set of rates and terms. The open solicitation process allows CYF to execute multiple contracts with multiple contractors on a continuing basis. Each contractor must meet or exceed pre-established minimum qualifications.

Documentation and Standards. Open solicitation contracts require vendors to submit all required documentation and paperwork – such as insurance requirements and budgets – with the vendor's signed contract.

Staff Tasks and Process Phases. DHHS staff in the CMT, the Fiscal Team, staff in Division of Risk Management, and staff in the Office of Procurement carry out the process to execute a contract and process vendor payments based on an open solicitation. The tasks and responsibilities can be grouped into four phases, as follows.

- **Phase I – CYF Service Area Tasks.** In this phase, the CYF program monitor receives a pre-approved contract form signed by the vendor. The program monitor reviews the contract package for accuracy and completeness and verifies that the vendor meets the minimum qualifications established in the pre-approved solicitation package. The program monitor forwards the package to the ASC for review. Following review, the ASC forwards the package and a Contract Action Worksheet to the CMT.
- **Phase II – CMT, Fiscal Team and Risk Management Tasks.** In this phase, DHHS' Fiscal Team prepares the requisition, the CMT approves the contract documentation, and Risk Management obtains and approves the certificate of insurance from the vendor. The CMT also reviews FAMIS for the last 12 months to check data for compliance with the County's wage requirement. When these tasks are complete, CMT recommends approval and sends the package to the Office of Procurement.
- **Phase III – Office of Procurement Tasks.** Staff in the Office of Procurement verify that the documentation is complete. Typically, documentation must include the signed transmittal letter, the vendor application, signature page, any attachments, a copy of the open solicitation, a dummy requisition and a money requisition, if applicable, and the vendor's approved insurance certificate. After Procurement notifies the CMT that the contract has been executed and a purchase order has been issued, the CMT sends the vendor a Notice to Proceed with a copy of the contract and the purchase order. The CMT also files the contract documents in the CMT's contract files and sends a copy to CYF program staff.

Phase IV – CYF, and Fiscal Team Vendor Payment Tasks. Once a contract has been executed and the Notice to Proceed issued, the vendor is permitted to begin service delivery. Once services are completed, the vendor submits an invoice to the CYF contract monitor for payment. The CYF contract monitor reviews the invoice for compliance with the terms and conditions of the contract, approves the invoice, and sends it to the DHHS Fiscal Team for payment. If an invoice is for \$5,000 or less, only DHHS Fiscal team approval is needed to pay the invoice. The Fiscal Team enter numerous points of invoice data into ADPICS, including the purchase order number, invoice number, vendor address, amount of invoice and due date. The due date is the date the department requests as the date of payment.

Once the invoice is posted on ADPICS, ADPICS automatically generates a voucher based on the purchase order number and posts it into FAMIS. Using Department staff and Accounts Payable staff then review the vouchers in FAMIS. The FAMIS system will generate a payment on the date requested by DHHS (the due date in the system).

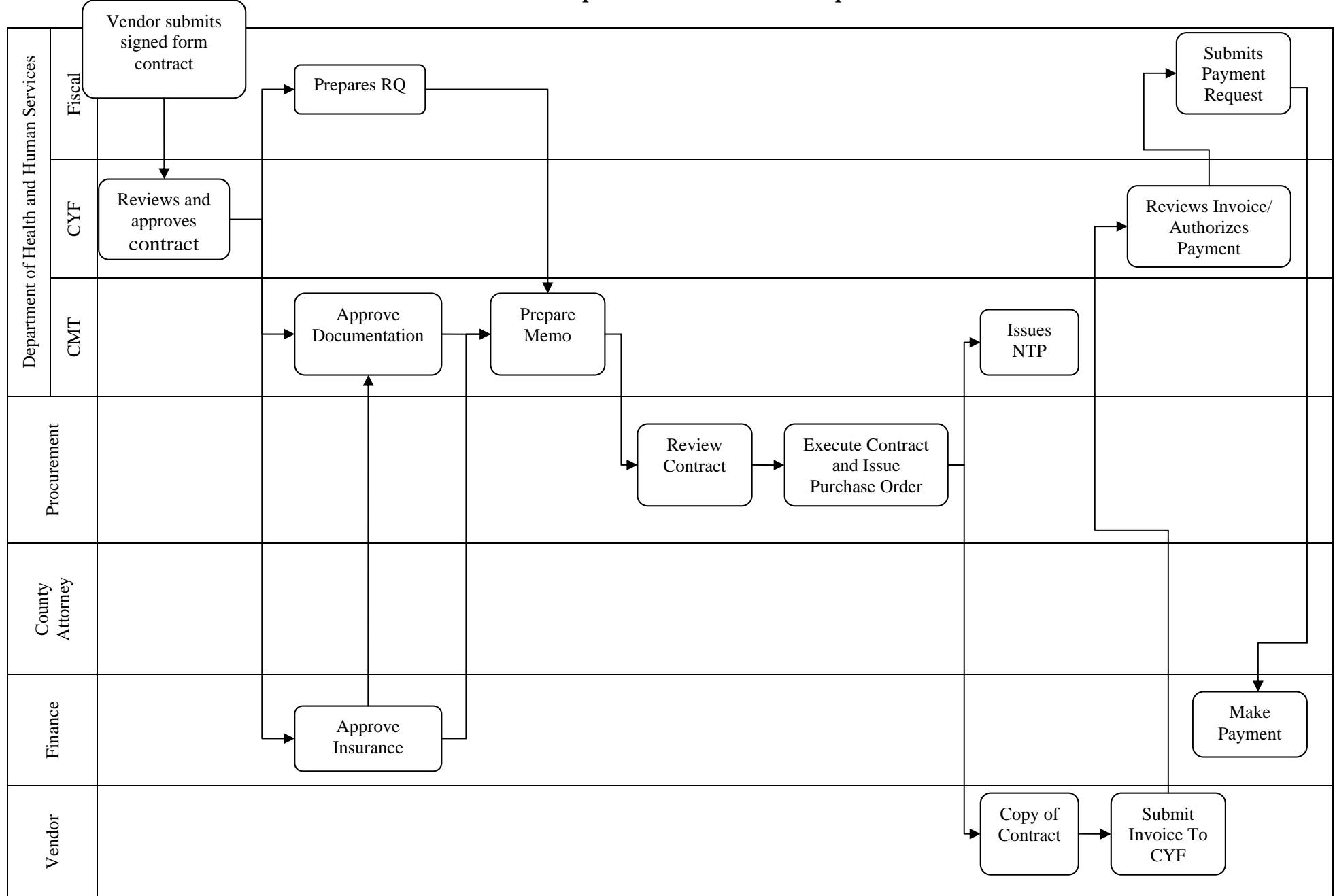
Invoices Greater than \$5,000. If an invoice is for an amount greater than \$5,000, the DHHS Fiscal Team sends a hard copy of the invoice to Accounts Payable and enters and posts the invoice into ADPICS. If an invoice is for less than \$25,000, an Accounts Payable clerk reviews and approves the invoice. If an invoice is for \$25,000 or more, an Accounts Payable manager reviews and approves the invoice. An Accounts Payable clerk posts approved invoices for payment on the due date identified by a department. If an Accounts Payable clerk or manager rejects an invoice for any reason, the invoice is returned to the initiator.

Data on Elapsed Time for Open Solicitations. In FY08, CYF programs finalized five contracts based on open solicitations. For complete tables of the processing dates for these contracts, see Appendix D. OLO's analysis of the elapsed time for this sample found:

- On average, staff executed the contract process in 84 days – from the date the vendor signed the pre-approved contract until the date the CMT issued a Notice to Proceed. Execution times for open solicitations ranged from 60 to 115 days. (Phases I – III)
- On average, the CMT issued a Notice to Proceed in 14 days after DHHS forwarded a contract package and a recommendation of approval. The process ranged from 9 to 22 days.
- On average, it took DHHS service area staff, the Fiscal Team and CMT 70 days to complete their tasks – from the date the vendor signed the pre-approved contract until the date of the DHHS recommendation to Procurement. The process ranged from 48 to 103 days. (Phases I – II)
- OLO was unable to obtain the date invoices were submitted by the vendor, but was able to find the average time between the CYF contract monitor approval of an invoice and payment to vendor, which was seven days.
- Data was not available to measure the elapsed times for service area staff or CMT staff to carry out their tasks separately.

Exhibit 5-1 (on the next page) shows the process to produce an executed contract based on an open solicitation.

Exhibit 5-1. Process Map for the Execution of an Open Solicitation



2. Request for Proposal

The competitive formal Request for Proposal (RFP) process is the most common process for procuring professional services or goods. An RFP is a formal request for competitive sealed proposals from vendors for professional services, or for a system of professional services plus construction, goods, or non-professional services. The County uses this process when:

- A procurement is valued at \$25,000 or more;
- A department formulates the scope of services/specifications to be acquired;
- Generally known sources of supply and competition exist; and
- Technical considerations and cost are valid criteria for evaluating offers.

Documentation and Standards. The contract for a Request for Proposal is predominantly based on the solicitation created for that contract. A solicitation for an RFP will often include a scope of services, performance measures, and insurance requirements. This documentation serves as background for the draft contract.

Staff Tasks and Process Phases. DHHS staff in the CMT, DHHS' Fiscal Team, staff in Division of Risk Management, and staff in the Office of Procurement carry out the process to execute a contract and process vendor payments based on an RFP solicitation. The tasks and responsibilities can be grouped into five phases.

- **Phase I – CYF Tasks re: Budgeting and Fiscal Management.** Once a Notice of Intent to Award is issued, the CYF contract monitor prepares a contract package based on information in the RFP solicitation. The package is approved by the program area supervisor, the service area ASC, and the Service Chief. Once the package is completed, the CYF service provides the following to CMT:
 - Request for Proposal (RFP) Checklist;
 - Completed and approved CAW;
 - Scope of services;
 - Program budget or Unit Price detail; and
 - Contract monitoring plan.
- **Phase II – CYF and CMT Tasks re: Contract Development and Vendor Negotiation.** The CMT then drafts a contract and gives it to service area staff for negotiations with the vendor. The contract negotiation phase produces a contract that clearly defines the services, terms, and conditions and sets cost and payment terms.

Using Departments are responsible for negotiating the contract terms with the vendor, working with Risk Management to approve the insurance requirements, drafting a contract that reflects these items, and forwarding a contract to the Office of the County Attorney for legal review.

- **Phase III – CMT, Procurement, County Attorney and Risk Management Tasks re: Contract Documentation and Regulatory Compliance.** During Phases I and II, the Office of Procurement, the County Attorney, and Office of Risk Management complete contract execution tasks. For contracts that meet certain dollar thresholds, the Office of Procurement is responsible for ensuring compliance with the County's MFD regulations and completing a cost price analysis. Specifically:
 - For contracts over \$5,000, the MFD officer in the Office of Procurement informs the vendor of County MFD goals and requests an MFD plan. The MFD officer will provide a list of MFD firms and work to facilitate a sub-contract between a vendor and an MFD firm.
 - For contracts over \$100,000, the cost pricing specialist in the Office of Procurement conducts a cost/price analysis. The specialist will compare the costs and services of the top three vendors and make a recommendation to accept or reject a proposed awardee. The cost pricing specialist forwards the analysis to the Procurement Specialist assigned to the contract. In some cases, the specialist provides findings to the Using Department for use in cost negotiations.
 - The County Attorney reviews and approves all drafted contracts for legality and compliance with County laws and regulations. The Office of Risk Management reviews insurance certificates for compliance with County requirements.
- **Phase IV – Office of Procurement Tasks.** Staff in the Office of Procurement verify that contract documentation is complete and accurate and then execute the contract and issue a purchase order. Procurement staff then notify the CMT, which sends the vendor a Notice to Proceed with a copy of the contract and the purchase order. CMT files the contract documents in its contract files and sends a copy to CYF program staff.
- **Phase V – CYF, and Fiscal Team Vendor Payment Tasks.** Once a contract has been executed and the Notice to Proceed issued, the vendor is permitted to begin service delivery. Once services are completed, the vendor submits an invoice to the CYF contract monitor for payment. The CYF contract monitor reviews the invoice for compliance with the terms and conditions of the contract, approves the invoice, and sends it to DHHS' Fiscal Team for payment. After review, a Fiscal Team staff member (processor) enters the information into ADPICS and a Fiscal Team staff member (approver) reviews and/or approves the invoice. Payments beyond the delegated authority are forwarded to the Department of Finance for approval. All payments are made through the FAMIS system.

Data on Elapsed Time for Requests for Proposals. In FY08, CYF programs finalized 13 contracts based on requests for proposals. For complete tables of the processing dates for requests for proposal, see Appendix D. OLO's analysis of the elapsed time for this sample found:

- On average, staff executed the contract process in 93 days – from the date the Notice of Intent to Award was posted until the date the CMT issued a Notice to Proceed. Execution time for RFPs ranged from 57 to 139 days. (Phases I – IV)
- On average, DHHS submitted draft contracts to the Office of Procurement in 45 days – from the date the Notice of Intent to Award was posted until the date the contract was recommended by DHHS. The processing times for this step ranged from 15 to 68 days.
- On average, the Office of Procurement issued a Notice to Proceed in 26 days after DHHS forwarded a contract package and a recommendation of approval. The process ranged from 7 to 79 days.
- On average, it took the vendor approximately seven days to sign the contract – from the day DHHS sent the signature letter to the vendor until the day the contract was signed by the vendor.
- OLO was unable to obtain the date invoices were submitted by the vendor, but was able to find the average time between the CYF contract monitor approval of an invoice and payment to vendor, which was ten days.

Exhibit 5-2 on the next page shows the process to produce an executed contract based on a request for proposal.

Exhibit 5-2. Process Map for the Execution of a Request for Proposal

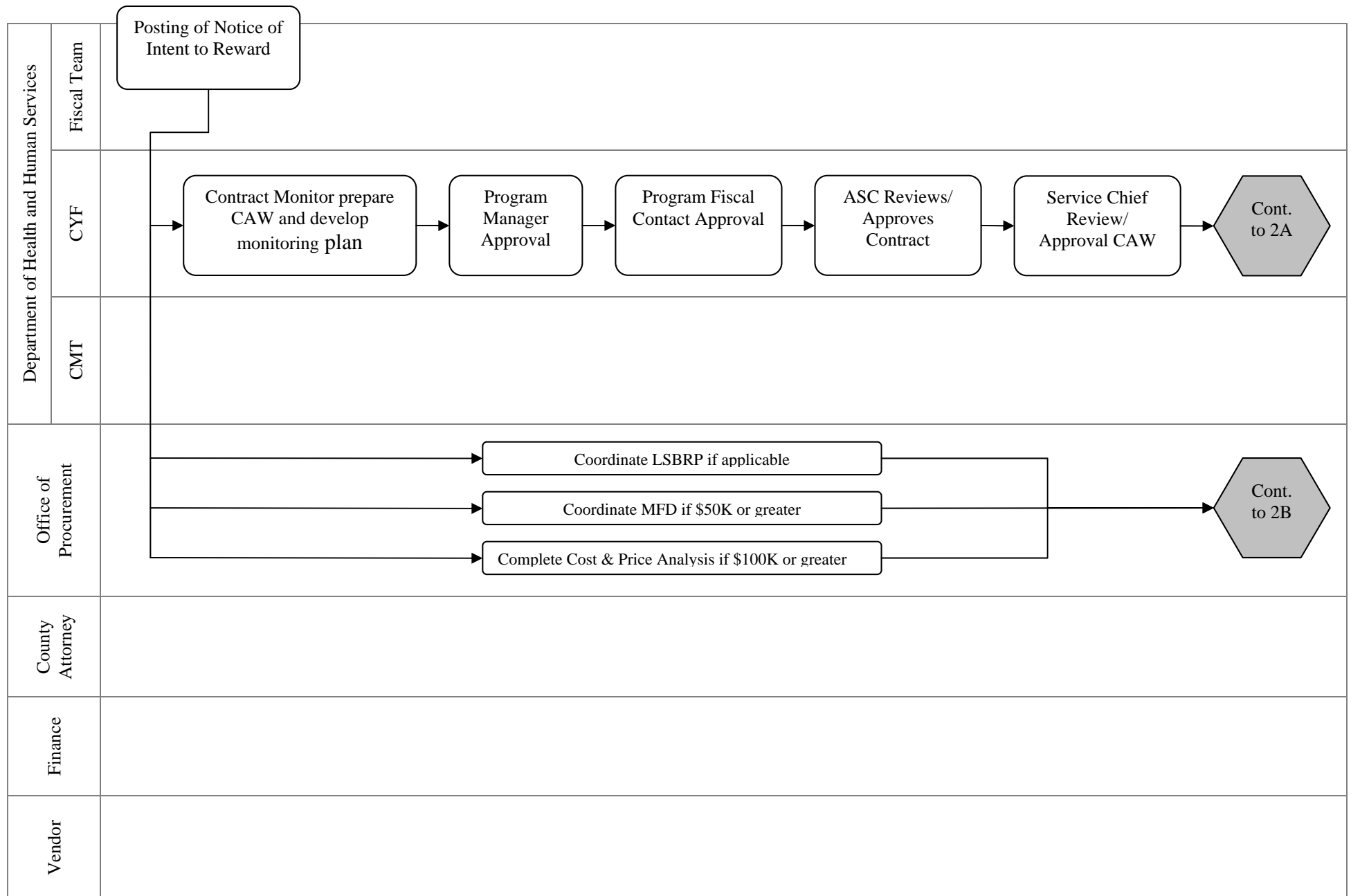


Exhibit 5-2. Process Map for the Execution of a Request for Proposal (Continued)

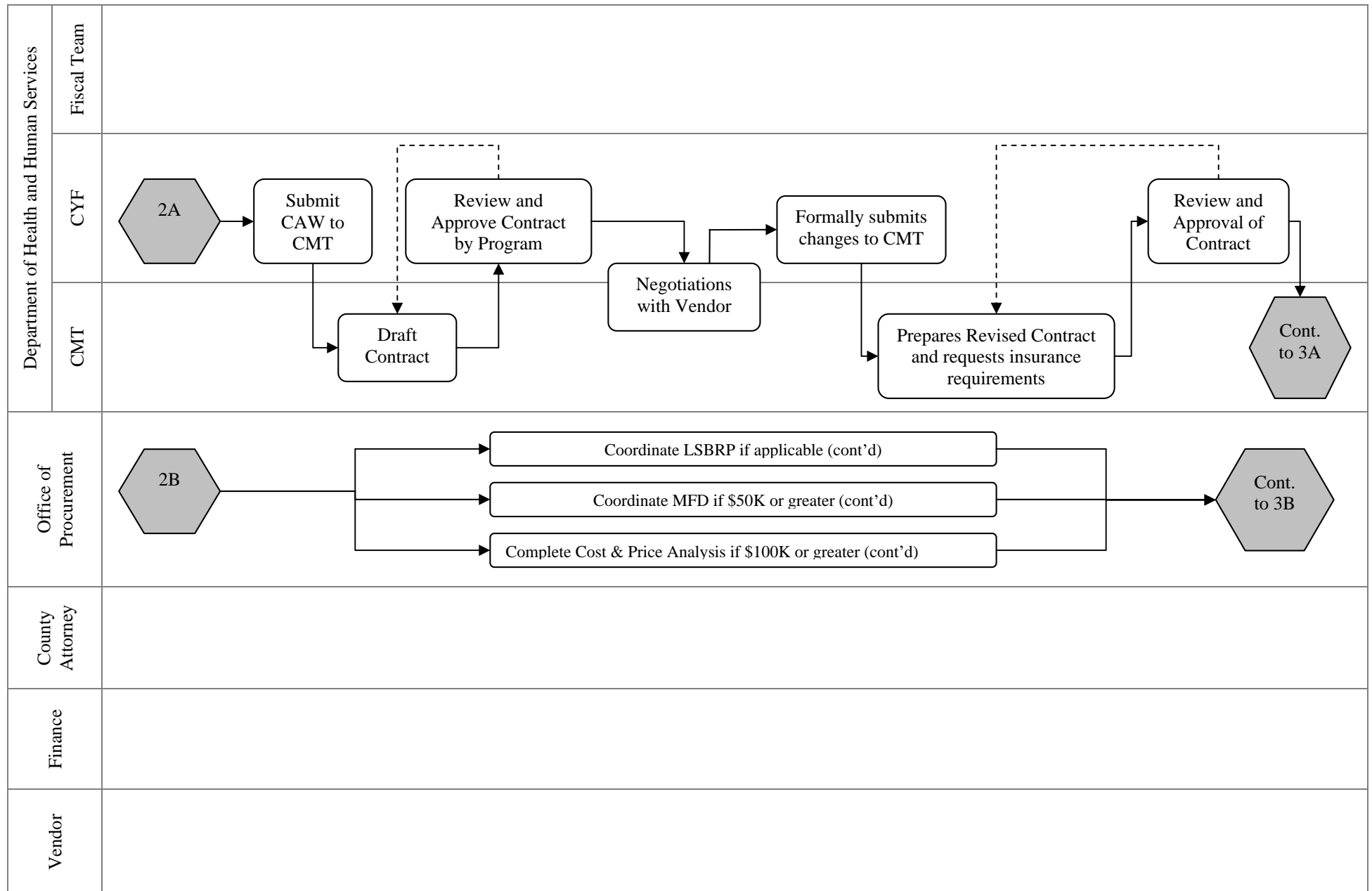


Exhibit 5-2. Process Map for the Execution of a Request for Proposal (Continued)

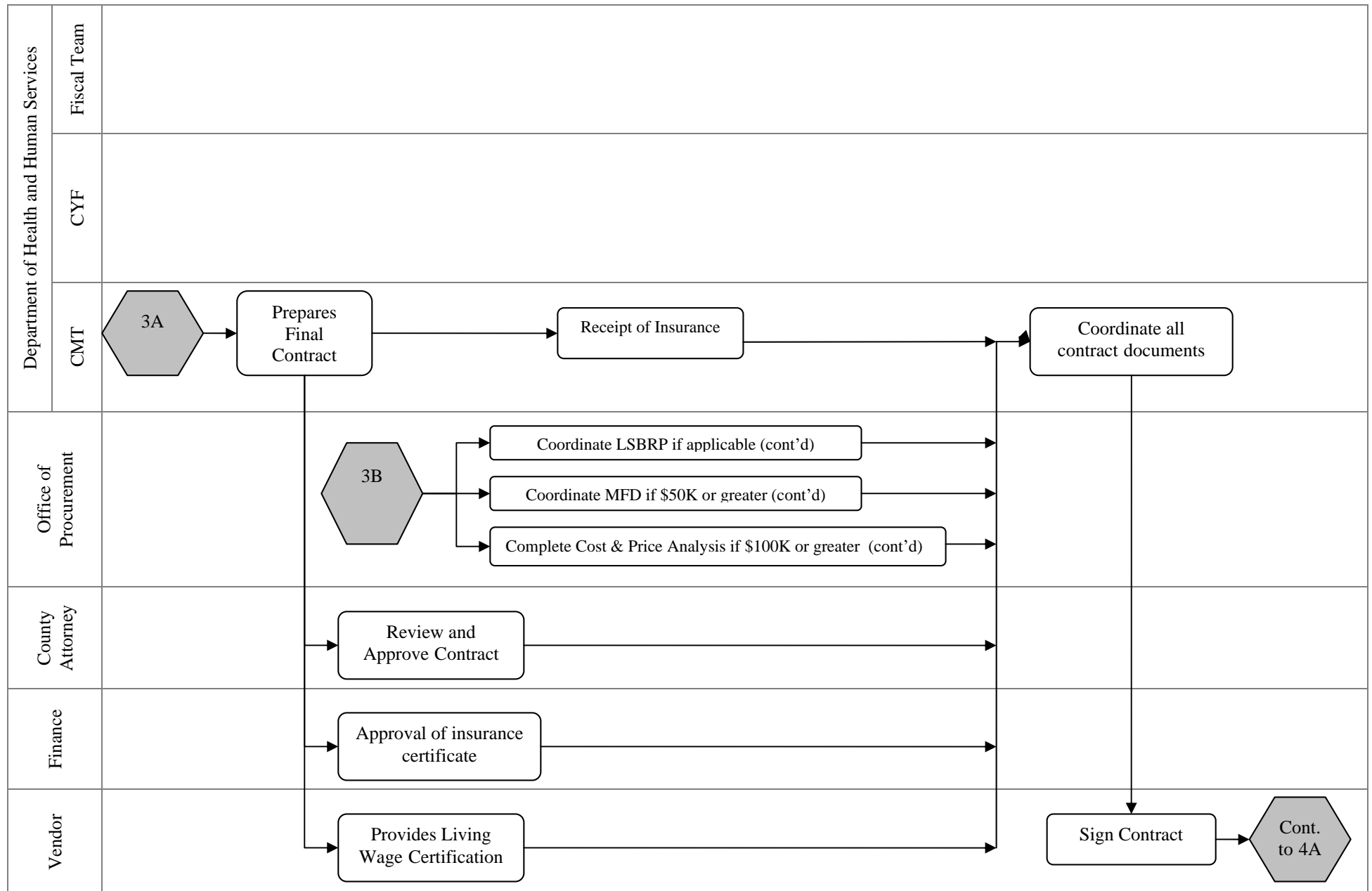
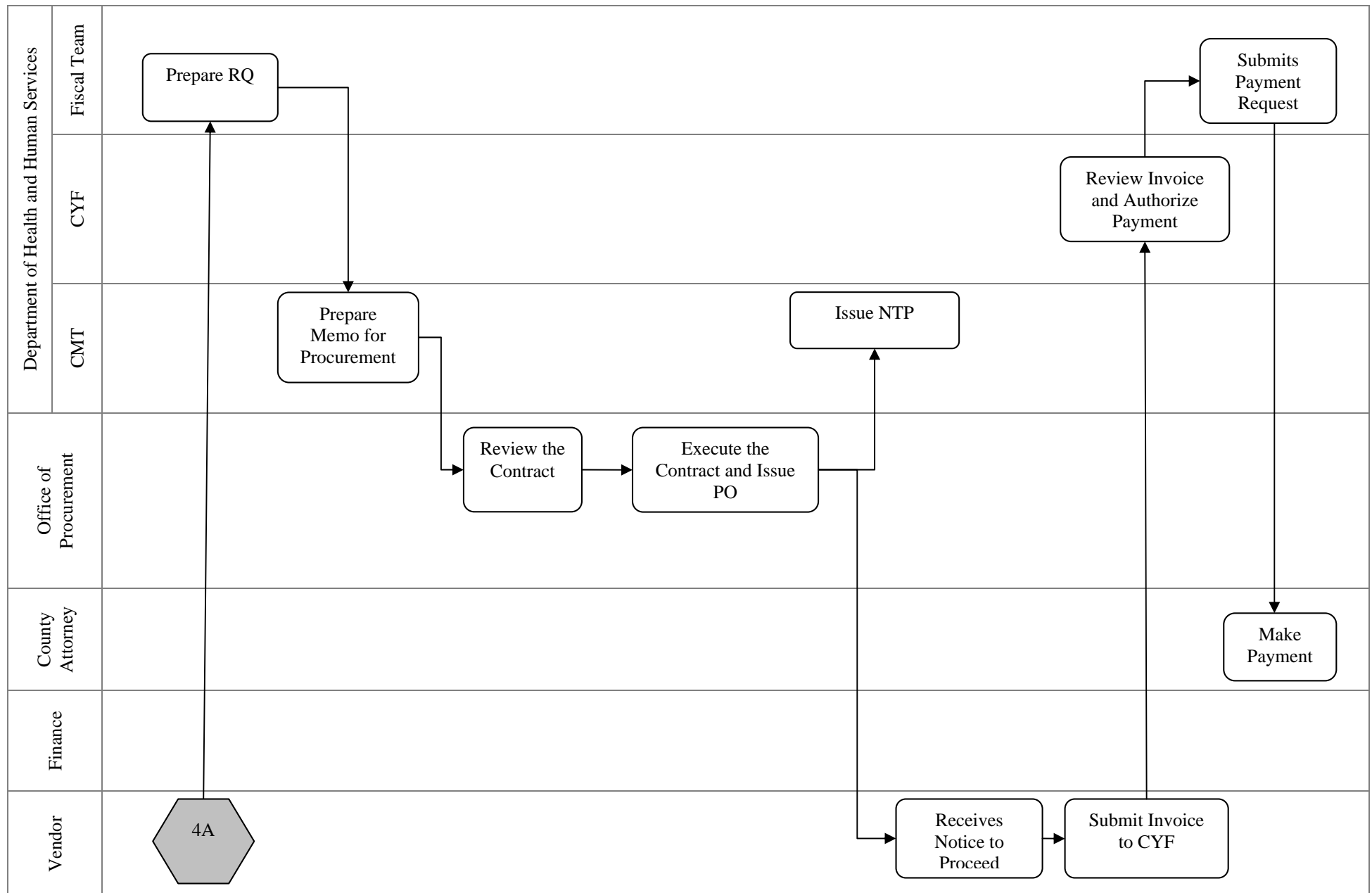


Exhibit 5-2. Process Map for the Execution of a Request for Proposal (Continued)



3. Non-Competitive Awards

Each year, the County Executive and County Council designate numerous for-profit and non-profit organizations as non-competitive award recipients (“community grants”). The Council appropriates funds for these awards to a Community Grants Non-Departmental Account (NDA) during the budget process. These grants are one-time awards with a term of one year. In practice, after the first year, funding for grant services may be incorporated in a department’s base budget request or an organization may be designated for an award for one-time funding for the identical services delivered the previous year.

Every non-competitive award listed on the Non-Competitive Contract List is assigned to a department for administrative purposes. Within DHHS, the Director and the Chief Operating Officer assign DHHS’ contracts to a specific service area or program.

Historically, DHHS has been responsible for the majority of awards on the list. In FY08, DHHS was assigned administrative responsibility for 228 contracts totaling \$41.4 million, representing 76% of all contracts and 78% of the total contract value of all contracts on the Non-Competitive Award List.

The cumulative effect of this practice is that budgeting for the non-competitive award grants that DHHS manages is carried out in two places: in the Community Grants NDA and in the DHHS service area budget.

Documentation and Standards. Council staff oversee a grant application process implemented by the Council. Very limited documentation for community grants exists prior to the award of the contract because, unlike open solicitations and RFPs, community grants have no pre-determined scope of services or performance measure requirements. The following is a timeline of the grant application process:

Time Period	Action
On or about December 15	Council Grant application available on Council web site
On or about February 1	Deadline for applications
February-March	Grants Advisory Group reviews and evaluates applications
Late April	Grants Advisory Group issues report
Late May	County Council makes funding decisions on grants as part of County Operating Budget. Proposals selected for funding are effective July 1.

Applicants must submit the following information with a grant application:

1. Proof of applicant’s not-for-profit and/or incorporation status.
2. Financial statement for applicant’s last complete fiscal year.
3. Complete budget for applicant’s current fiscal year (total organization budget).
4. Current list of applicant’s Board of Directors.
5. Lease or letter from facility owner if proposal is for a renovation project.

See Appendix E for a copy of the FY08 Council Grant Application.

Staff Tasks and Process Phases. DHHS staff in CYF, the CMT, and the Fiscal Team, staff in Division of Risk Management, Office of Procurement, and the Office of the County Attorney carry out the process to execute a contract and process vendor payments for community grants. The tasks for County departments are similar to the RFP process, with the exception of some initial responsibilities. The tasks and responsibilities can be grouped into five phases, as follows.

- **Phase I – CYF Service Area Tasks.** In this phase, the CYF contract monitor receives a vendor name, award value, and a general summary of the services to be provided. The contract monitor must create a scope of services and work with the vendor to establish a program budget, if one does not exist. In addition, as required by the County's Procurement Regulations, DHHS conducts a cost/price analysis for grants for \$50,000 or more. Once these steps are complete, the program monitor forwards the package to the ASC and Service Chief for review. Following this review, the ASC forwards the package and a Contract Action Worksheet to the CMT.
- **Phase II – CMT, Fiscal and Risk Management Tasks.** In this phase, CMT works with the Division of Risk Management to establish insurance requirements for the vendor, reviews and revises the draft contract and sends it to the County Attorney's Office, obtains vendor signature on documents, and prepares the transmittal memorandum to Procurement. The Fiscal Team prepares the requisition, the CMT approves the contract documentation, and Risk Management approves the certificate of insurance from the vendor. The CMT also reviews FAMIS for the last 12 months to check data for compliance with the County's wage requirement.
- **Phase III – CMT, Procurement, County Attorney and Risk Management Tasks re Contract Documentation and Regulatory Compliance.** During the course of Phases I and II, the Office of Procurement, the County Attorney, and Office of Risk Management are completing contract execution tasks. The County Attorney reviews and approves all drafted contracts for form and legality and for compliance with County laws and regulations. The Division of Risk Management reviews insurance certificates for compliance with County requirements.
- **Phase IV – Office of Procurement Tasks.** Staff in the Office of Procurement verify that the documentation is complete. Typically, it must include the signed transmittal letter, the vendor application, signature page, any attachments, a copy of the contract, a dummy requisition and a money requisition, if applicable, and the vendor's approved insurance certificate. After Procurement notifies the CMT that the contract has been executed and a purchase order has been issued, the CMT sends the vendor a Notice to Proceed with a copy of the contract and the purchase order. The CMT also files the contract documents in its contract files and sends a copy to CYF program staff.

- **Phase V - CYF, and Fiscal Team Vendor Payment Tasks.** Once a contract has been executed and the Notice to Proceed issued, the vendor is permitted to begin service delivery. After performing services, the vendor submits an invoice to the CYF contract monitor for payment. The CYF contract monitor reviews the invoice for compliance with the terms and conditions of the contract, approves the invoice, and sends it to the DHHS Fiscal Team for payment. After review, a Fiscal Team staff member (processor) enters the information into ADPICS and a Fiscal Team staff member (approver) reviews and/or approves the invoice. Payments beyond the delegated authority are forwarded to the Department of Finance for approval. All payments are made through the FAMIS system.
- **Data on Elapsed Time for Community Grants.** In FY08, CYF programs finalized ten contracts based on community grants. For complete tables of the processing dates for requests for proposal, see Appendix D. OLO's analysis of the elapsed time for this sample found:
 - On average, staff overall executed the contract process in 114 days – from the date the Council passed the budget until the date the CMT issued a Notice to Proceed. Execution time for community grants ranged from 87 to 167 days.
 - On average, CYF submitted a draft contract to the service area administrative services coordinator in 96 days – from the date the Council passed the budget until the date the contract was submitted to the CMT. The process ranged from 37 to 166 days.
 - On average, the Office of Procurement issued a Notice to Proceed in 11 days after DHHS forwarded a contract package and a recommendation of approval. The process ranged from 2 to 22 days.
 - OLO was unable to obtain the date invoices were submitted by the vendor, but was able to find the average time between the CYF contract monitor approval of an invoice and payment to vendor, which was ten days.

In addition, the available data also show that:

- The Division of Risk Management took an average of six days to provide insurance requirements;
- The Office of the County Attorney took an average of four days to review and approve a contract;
- The vendor took an average of ten days to provide insurance and eight days to sign a contract.

Exhibit 5-3 on the next page shows the process to produce an executed contract that results from a community grant.

Exhibit 5-3. Process Map for the Execution of a Community Grant

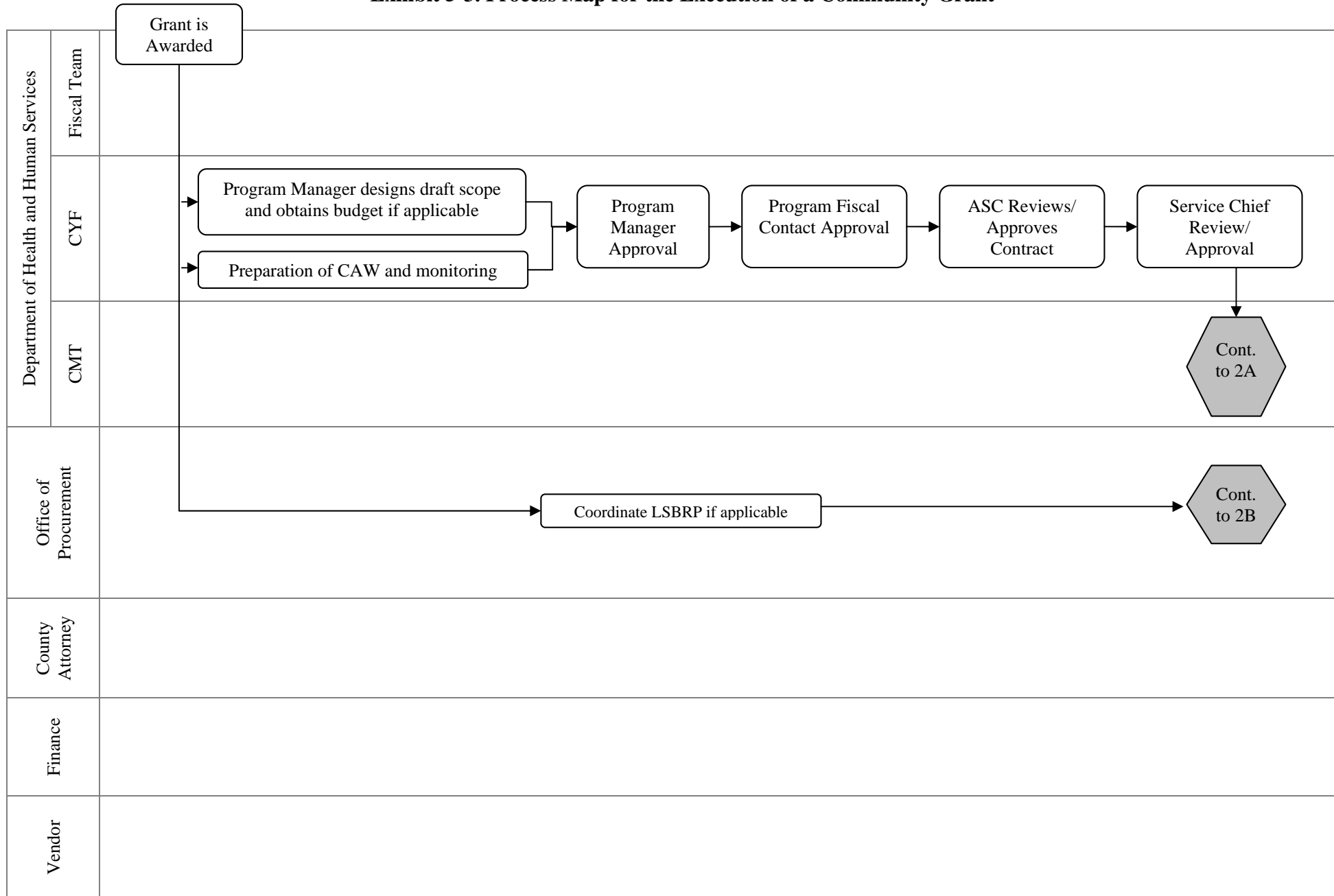


Exhibit 5-3. Process Map for the Execution of a Community Grant (Continued)

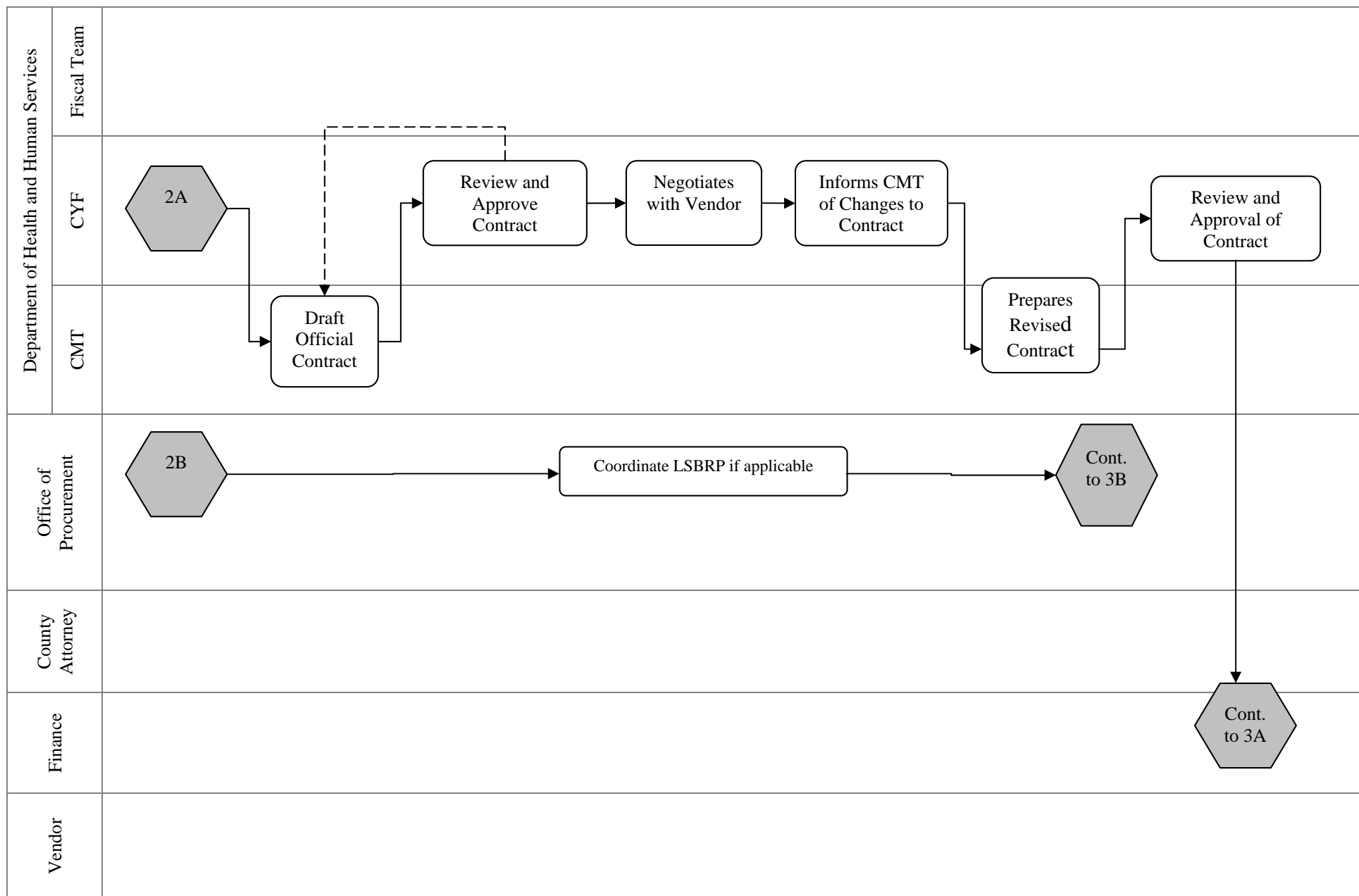
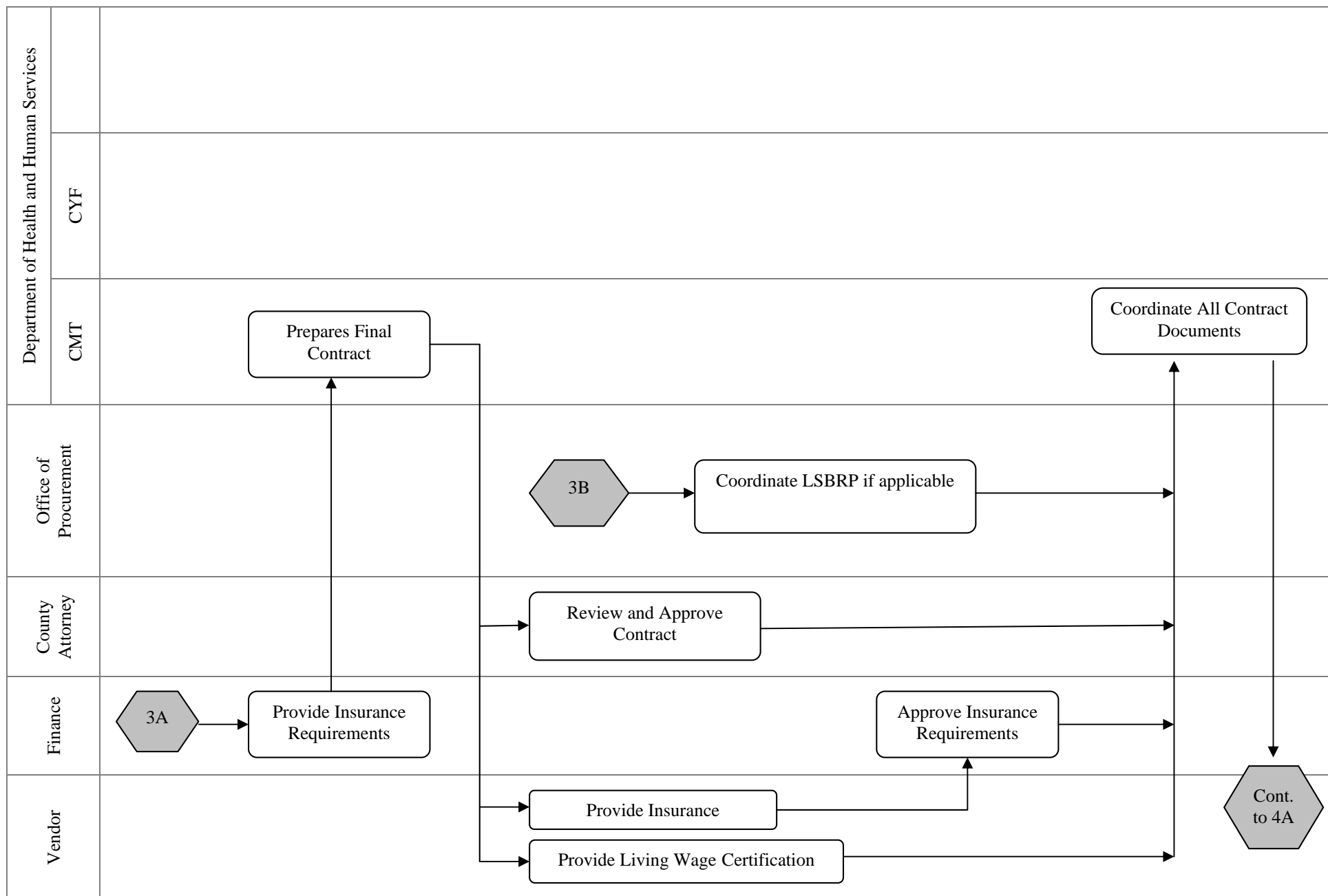


Exhibit 5-3. Process Map for the Execution of a Community Grant (Continued)



58

Department of Health and Human Services		Fiscal Team	
		CYF	CMT
Office of Procurement	Prepare RQ	Prepare and Send Memo	Review Contract
	Execute Contract and Issue PO	Issue NTP	Receive Copy of Contract
County Attorney	Review Invoice and Authorize Payment	Submits Payment Request	
Finance	Make Payment		
Vendor	4A Sign Contract	Receive Copy of Contract	Submit Invoice to CYF

C. Other Source Selection Methods

At times, DHHS may use other types of source selection methods. In FY08, DHHS had one informal solicitation and one named-in-a-grant contract. This section briefly describes these and other types of procurements.

Informal Solicitation. An informal solicitation is used for a small purchase of goods, services or construction – for more than \$5,000 but less than \$25,000. For informal solicitations, the DHHS service area prepares specifications and quote sheets, followed by the CMT preparing a bid document. The service area then prepares a requisition. In the last steps, the Office of Procurement executes a contract and purchase order. Once an invoice is received and approved by CYF, the DHHS Fiscal Team makes the payment.

Named-in-Grant. A named-in-grant contract is a result of the grant awarded to the County, most often from the State of Maryland or the federal government. The grant specifically names a vendor to deliver the services, and the Using Department is responsible for drafting and executing a contract based on the grant. The Director of Procurement may enter into a non-competitive contract if the person was named or designated in a grant accepted by the County.⁴⁴

Public Entity. A public entity procurement is an agreement with a public entity to acquire or use goods, services, or construction. It does not require public notice or non-competitive justification. It is used when another public entity provides goods, services, or construction for the County and the agreement serves the best interest of the County.

To execute a public entity contract, the DHHS CMT:

- Prepares contract and forwards to County Attorney for review;
- Obtains all signatures on the contract;
- Prepares a requisition request for the Fiscal Team;
- Obtains mandatory insurance requirements from Risk Management, gets insurance certificates from the vendor, and obtains Risk Management approval of the insurance certificates.

Following these steps, the Office of Procurement:

- Reviews the contract document;
- Creates a purchase order; and
- Executes the contract.

⁴⁴ COMCOR 11B.00.01.17.

Emergency Solicitation. An emergency procurement is a procurement of goods, services, or construction necessitated by:

- A threatened dangerous condition; or
- A threatened imminent or unforeseen curtailment of an essential service or supply that will endanger or damage health, life or property and cannot be remedied through a normal procurement.

A Using Department first determines the need for an emergency good or service then seeks approval from the Director of Procurement. If the Director of Procurement is unavailable, the Using Department Director may give approval. Following approval, the vendor issues a quote for the goods or services and the Departments issues a direct purchase order. The Office of Procurement approves the purchase order, and payment is issued for the goods or services and finally, the Using Departments forwards a memorandum detailing the emergency purchase to the Director of DGS within five days of the purchase.

CHAPTER VI: PROCEDURES FOR MONITORING DHHS CONTRACTS

This chapter details DHHS' policies and procedures for monitoring contracts. Contract monitoring allows DHHS staff to determine that all DHHS contracts are rendering services at an acceptable level and in compliance with the contract scope of services. It is a continuous system of oversight and support to the vendor and ensures that:

- Services are delivered in accordance with the contract terms;
- Services are delivered in accordance with law and regulations;
- Inefficiencies and problems are identified and corrected;
- Services are efficiently and effectively delivered;
- High quality services are delivered;
- Problematic spending patterns are identified and modified; and
- The County is using appropriate programmatic and fiduciary responsibility.

This chapter is organized as follows:

- **Part A, DHHS Program Monitoring Guidelines**, describes DHHS' guidelines for contract monitoring created in 2003;
- **Part B, Contract Monitoring in Children, Youth and Family Services**, describes the organizational structure and monitoring practices in CYF; and
- **Part C, Contract Monitoring Workgroup Summary**, provides an overview of a CYF workgroup on contract monitoring practices.

A. DHHS Program Monitoring Guidelines

DHHS has Program Monitoring Guidelines. In 2003, DHHS' Contract Management Team hired consultant Walter Wolfe, a former DHHS employee, to evaluate DHHS' contract monitoring function. In conjunction with the CMT, Wolfe established the DHHS Program Monitoring Guidelines, which currently serve as standards for contract monitoring in DHHS. These Guidelines are mandatory. In March 2004, an amendment (#1-05) outlining guidelines for Contractor Corrective Action was issued. See Appendix F for a copy of the Program Monitoring Guidelines. The monitoring guidelines are currently being updated to include an expanded role for the Chief Operating Officer, the Chief, Financial Operations and the Service Chiefs. These expanded roles reflect a greater involvement of senior level management in problem resolution and departmental prioritization.

1. Roles and Responsibilities for Contract Monitoring

Numerous DHHS offices share contract monitoring services. According to the Program Monitoring Guidelines, the Chief Operating Officer and Service Area chiefs provide oversight and approval functions for the contracting process. The Guidelines assign contract monitors and the Contract Management Team primary responsibility for contract monitoring. Contract monitors are responsible for ensuring that the service delivery according to all applicable laws and regulations and in agreement with the scope of services in a contract.

The following table provides a brief overview of the roles of various actors in the contract monitoring process.

Table 6-1. DHHS Contract Monitoring Roles and Responsibilities

Role	Duties Include
Chief Operating Officer	<ul style="list-style-type: none"> • Monitors implementation of contract processes and practices • Approves procurement actions forwarded from CMT
Contract Management Team (CMT)	<ul style="list-style-type: none"> • Collaborates with Procurement and OCA to issue solicitations • Submits draft solicitations, new contracts, contract renewals, and other procurement actions • Collaborates with Procurement and OCA to develop and execute contracts • Provides technical assistance to service areas • Seeks solutions with Procurement for non/poor vendor performance • Issues Notice to Proceed • Maintains solicitation and contract records, including executed contracts, amendments, insurance, and monitoring plans • Prepares and processes change orders, amendments, and renewals
Service Area Chiefs	<ul style="list-style-type: none"> • Ensure preparation and submission of procurement action requests • Ensure adherence to regulations and processes • Ensure collaboration with other services areas, as needed
Contract Monitors (in Program Areas)	<ul style="list-style-type: none"> • Submit scope of services and CAW • Prepare and submit contract monitoring plans • Monitor performance of contractors • Review/approve contractor reports and invoices • Monitor expenses; submit requests for delivery orders, change orders, increases/reductions

Source: DHHS Contract Monitoring Guidelines, 2003

Contract Monitors. The contract monitor is the person primarily responsible for the contract monitoring function. Contract monitors' daily functions can include:

- Reviewing and completing the contract monitoring plans;
- Making on-site visits (up to four times per year);
- Reviewing contractor reports;
- Reviewing and approving contract invoices;
- Sending notices to contractors; and
- Communicating with the contractor.

Invoices and Payments. The contract monitor is the gatekeeper for the timely flow of invoicing and contract payments. The contract monitor must:

- Consider all actions pending that may impact payments;
- Monitor expenses and adjust encumbrances as needed;
- Ensure availability of funding before approving invoice; and
- Submit approved invoices.

Records Management. While the official contract file is maintained by the CMT, contract monitors may keep records that include:

- Signed copies of contracts;
- Contract Monitoring Plans;
- Record/report logs;
- Copies of purchase orders;
- Copies of Notices to Proceed
- Copies of CAWs;
- Notices of adverse action;
- Copies of invoices; and
- Copies of correspondence.

Contract Management Team. The CMT works with administrative service coordinators, contract monitors, and service area chiefs to ensure each contract is appropriately monitored. The CMT primarily oversees administrative monitoring of contracts, including:

- Issuing Notices to Proceed or Notices of Termination;
- Notifying vendors of non-compliance and of expired insurance;
- Transmitting paperwork to Procurement;
- Providing technical assistance to contract monitors; and
- Developing and maintaining contract databases.

The CMT also receives the contract monitoring reports annually from contract monitors during the last quarter of the fiscal year. The contract monitoring reports are required for the renewal of all contracts. Contract monitoring files are filed separately from the official contract files kept by the CMT.

The CMT has one position dedicated to contract monitoring and is in the process of developing the position's roles and responsibilities. Currently, the position's primary responsibilities include:

- Coordinating and reviewing contract monitoring tasks of program area staff, including maintaining a department wide database that tracks when the last site visit was conducted for a particular contract;
- Reviewing contract monitor plans for compliance with a contract's scope of services; and,
- Managing the LSBRP Program for DHHS.

Contract monitors are required to submit contract monitoring plans to the CMT. A CMT case manager reviews plans for formality and the CMT monitoring reviews plans for compliance. If an issue arises with contract monitoring, the program area contract monitor then will notify the CMT if necessary.

2. Tools for Contract Monitoring

The Monitoring Guidelines outline numerous methods for contract monitoring and the use of performance measures in the monitoring process. The Guidelines briefly mention the use of performance measures while monitoring contracts:

Contract monitors should be knowledgeable of their Service Area's broad performance measures that apply to contracts they oversee and use these measures to gauge the impact of the contractor's delivery of services

The remainder of this section outlines contract monitoring methods recommended by the Monitoring Guidelines.

Correspondence. The Guidelines recommend that contract monitors routinely correspond with vendors for oversight purposes. The Guidelines recommend the following types of communication: report forms; e-mails; telephone discussions; and reminder letters.

Site Visits. Site visits are a key monitoring tool for DHHS contract monitors. The Program Guidelines recommend that contract monitors review all relevant documents before making site visits, including the prior and present Contract Monitoring Plans, scope of services, contractor reports, performance measures, and applicable regulations. The Guidelines also recommend arranging a site visit shortly after the execution of a new contract to introduce the contract monitor and discuss DHHS' service expectations.

Ideally, the Guidelines suggest that DHHS staff visit contractors quarterly. However, if budget reductions or staff workload demand, contract monitors should prioritize vendors for site visits. Some factors impacting vendor priority include:

- Type of services provided;
- Level of funding;
- Complexity of scope of services;
- High political or community visibility;
- Past performance problems;
- New vendor; and
- Whether the vendor is a Council Grantee.

The Guidelines recommend the following frequency of site visits based on priority level:

- High priority – quarterly visits;
- Medium priority – bi-annual visits;
- Low priority – annual visit.

Team Monitoring. Some vendors have two or more contracts within DHHS' that may cross service areas. For these contracts, the Guidelines recommend that monitors coordinate team site visits. If applicable, the Guidelines also recommend that contract monitors coordinate monitoring efforts with state or other public entities funding the same vendor or same services.

Contract Monitoring Plans. According to the Guidelines, contract monitors should submit Contract Monitoring Plans to the CMT for all new contracts within 60 days of contract execution. For contract monitoring, DHHS uses two basic types of monitoring plans and one financial monitoring form – the *Program Monitoring Review Form*, the *Program Monitoring Review Short Form: for Delivery Order/Task Orders and Open Solicitations*, and the *Contractor Financial Management Monitoring Form* – described below. Both CMT staff and program area staff report that contract monitors do not submit monitoring plans within the recommended timeframe. Copies of the monitoring forms are available in Appendix G.

These forms allow contract monitors to rank how well vendors provide each item in a contract's scope of service. Vendors can be in:

- **Full compliance** – contractor is in full compliance with contract item under review;
- **Partial compliance** – contractor needs to improve on the item under review; or
- **Non-compliance** – contractor is significantly out of compliance and needs to submit corrective action plan on item under review.

Program Monitoring Review Form. The five-page *Program Monitoring Review Form* allows contract monitors to record findings from monitoring activities, primarily from site visits. The form allows contract monitors to record information about:

- Contractor service delivery;
- Client groups served;
- Program staffing;
- Administrative management;
- Client files management;
- Facilities;
- Adherence to applicable federal and state laws;
- Customer satisfaction; and
- Financial management.

Program Monitoring Review Short Form.: For Delivery Order/Task Orders and Open Solicitations. The two-page *Program Monitoring Review Short Form* is designed for less complex oversight than the five-page form. Contract monitors can review whether goods or services meet contractual specifications, whether the contract should be renewed and can include an explanation if the goods or services were not delivered according to the scope of services.

Contractor Financial Management Monitoring Form. Contract monitors use the *Contractor Financial Management Monitoring Form* to perform a more detailed examination of a vendor's financial management system. The form helps monitors perform a more thorough assessment of a vendor's financial integrity than the financial-related questions in the *Program Monitoring Review Form*.

Contractor Reports and Invoices. For most contracts, the vendor must submit to the contract monitor a monthly report with a monthly invoice that reflects the services provided.

Corrective Action for Poor Contract Performance. Contract monitors are responsible for determining the nature and severity of poor performance under a contract and providing contractors with written notice of problems and recommendations and timelines for corrective action. The contractor is required to respond in writing with a corrective action plan, which the contract monitor reviews and uses to monitor corrective action. Contract monitors may use unscheduled site visits for poorly performing contractors who do not respond to corrective action requests.

B. Contract Monitoring in Children, Youth and Family Services

Children, Youth and Family Services' program areas use a variety of methods to monitor contracts. DHHS staff report significant variance in the level and degree of contract monitoring among contracts and cite the following factors:

- Contract administration workload of a contract monitor;
- Direct service workload of a contract monitor;
- History and reputation with a vendor;
- Type and complexity of a contract;
- Value of a contract; and
- Community visibility of contract services.

The following section describes each program area's contract monitoring function.

1. Child Welfare Services

Child Welfare Services' (CWS) Resource Section performs contract monitoring functions for the program area. Previously, one administrator was primarily responsible for all contracting functions, including monitoring. Child Welfare Services is currently transitioning these tasks to a new contract monitor – an administrative specialist – and the administrator now serves as a “mentor” for the new CWS contract monitor.

Child Welfare Services staff identified the following as key aspects of contract monitoring for the program area:

- Establishing a vendor filing system to maintain contract documentation;
- Communicating with vendors (phone, email, letter) about issues, deadlines, requirements, and responsibilities;
- Communicating with the CMT and Procurement; and
- Tracking financial data.

CWS reports that the contract monitor performs the following functions:

- Reviewing monthly invoices to tract fiscal accountability and compliance with budget approval;
- Reviewing monthly/quarterly reports to ensure compliance with contract;
- Providing technical assistance to vendors (templates, data collection);
- Performing site visits and phone check-ins;
- Ensuring HIPAA compliance;
- Reviewing on-site files and case records, such as employee files, criminal background check files, driver's license records; and
- Reviewing customer/consumer surveys and feedback from staff.

2. Early Childhood Services

Currently, seven positions in Early Childhood Services (ECS) are responsible for monitoring contracts. Contract administration assignments are based on personnel availability, workload level, and expertise. Variations exist in the frequency and type of monitoring for ECS contracts and are based on the contract monitor, vendor, services provided, and time and budget constraints. Examples of variations include:

- Staff may monitor new vendors more than established vendors; and
- Vendors providing certain types of services may receive more monitoring, i.e., vendors who provide professional services may require more monitoring than a vendor who provided a commodity.

ECS contract monitors vary the methods used to monitor contracts. ECS contract monitors use a combination of the following monitoring techniques:

- Review of vendor performance reports;
- Technical review of vendor paperwork;
- Site visits and phone check-ins;
- Review of on-site vendors files and case records, such as employee files, criminal background check files, driver's licenses records; and
- Review of customer/consumer surveys and feedback from staff.

3. Income Support Services

CYF's Income Support Services monitors one contract to help implement the work support system in the County. The program area currently has two contract monitors for the single contract. Currently, the program area is transitioning contract administration functions to a newly-hired program manager. The program manager will have the primary responsibility for the contract administration, including the contract monitoring function.

Income Support Services' contract is with Arbor Education, Inc. (Arbor) and is one of the County Government's first performance-based contracts. The contract provides that the County will pay the contractor up to a specified amount in accordance with Performance Based Payment Points. Payment is contingent upon the contractor's accurate and satisfactory completion of all data-entry requirements regarding work activity and/or placement data. Table 6-2 outlines the contract's payment points and volume for FY08. The payment points have various payment rates for each point.

Table 6-2. Summary of Payment Points for Performance-Based Contract with Arbor Education

Payment Point	Description	Volume in FY08
Orientation and Assessment	Number of assessments performed based on customer signatures in sign-in logs	1,246
Monthly Participation - Countable	Paid for "countable" customers who are enrolled in State-defined activities and participating 40 hours a week in those activities	339
Monthly Participation	Paid for non-countable program participants	3,634
Placement (Temporary Cash Assistance (TCA))	Paid for program participant "placements" who were employed at least 30 hours a week	219
Retention	Paid for participants who remain at employment	55 (30 Day) 12 (180 Day)
Medical Benefits Bonus	Paid if participant is eligible to receive medical benefits	152
Child Care Voucher	May be paid for each correct child care voucher issued by contractor	1,026

Source: Income Support Services, June 2008

Data Tracking. The contract monitor extensively tracks data for the contract because contract payment is based on performance measures. In addition, numerous federal and state laws and goals require data reporting about the County's work support system and both the state and County have established related performance measures.

The State's Department of Human Resources established the following State Performance Goals for work support programs, as shown in the table. The table also shows Montgomery County's performance in FY08.

Table 6-3. Maryland State Performance Goals and Montgomery County Performance for Work Support Programs

Indicator	State Performance Goal	Montgomery County
Earnings Gain Rate	40%	45%
Job Retention Rate	70%	80%
Work Participation Rate	50%	52%
Placements	410	411
Universal Engagement	100%	100%
% Placed Who Are Offered Health Insurance	40%	43%
Average Hourly Wage	\$8.60	\$11.07

Source: Income Support Services, June 2008

To monitor the progress of the contract with Arbor, the County has established the following County Performance Measures:

- Percentage of Temporary Cash Assistance (TCA) recipients who become employed;
- Percentage of TCA recipients who remained employed after one year;
- Number of TCA recipients placed in jobs;
- Number of adult TCA recipients served.

The program area also produces three monitoring reports that detail data about a recipient's participation in TCA, a recipient's activities, and a recipient's attendance.

4. Juvenile Justice Services and Child and Adolescent Services

As stated in Chapter III, Juvenile Justice Services and Child and Adolescent Services have overlapping staff that monitor contracts.

Juvenile Justice Services. Currently, three Children, Youth and Family Services staff monitor contracts for the Juvenile Justice Services program area:

- A Program Manager I monitors most Juvenile Justice Services contracts;
- A Manager III monitors all Gang Prevention Initiative contracts;⁴⁵ and
- A Therapist II does some contract monitoring for contracts associated with adolescent sex offenders.

In addition to the above DHHS staff, other County employees help monitor High School Wellness Center contracts administered by Juvenile Justice Services.

Child and Adolescent Services. Currently, three CYF staff monitor Child and Adolescent Services' (CAS) contracts. One of these staff members – a Program Manager I – also provide contract administration for the Juvenile Justice Services program area. The Program Manager I monitors all CAS contracts, with the exception of contracts for the Linkages to Learning Program. Linkages to Learning Program contracts are administered and monitored by two part-time Program Manager I.

Contract Monitoring. The level and type of contract monitoring varies with each contract. The monitors use a variety of methods to determine if service delivery is consistent with contract provisions and submitted reports. Contract monitoring may include any or all of the following:

- Communicating through phone and email;
- Reviewing contractors' reports and other materials to evaluate services provided; and
- Conducting on-site reviews, when appropriate, to assess the nature and quality of the services provided.

⁴⁵ As of FY09, the Gang Prevention Initiative is no longer under Juvenile Justice Services but is now an independent program in Children, Youth and Family Services.

C. Children, Youth and Family Services Contract Monitoring Workgroup

On October 31, 2007 the Children, Youth and Family Services' Service Chief convened a meeting with Senior Leadership and Contract Monitors in CYF. The purpose of the meeting was to discuss contract monitoring within the service area. Based on this discussion, a small Contract Monitoring Workgroup was appointed to develop recommendations to improve contract monitoring in CYF.

The Workgroup summary is a work in progress within the Department. The Workgroup findings and recommendations are only applicable to Children, Youth and Family Services currently. The Department is working to align the report across service areas and create greater internal consistency.

Methodology. The Workgroup met numerous times to discuss contract monitoring issues within CYF. The Workgroup examined contract-related documents, including the Program Monitoring Guidelines, the program monitoring review forms, and guidelines for corrective action. The Workgroup also reviewed best practices for contract monitoring.⁴⁶

The Workgroup also discussed the results of two surveys – one distributed to CYF contract monitors in October 2007 and one sent to contractors in November 2007. CYF summarized the results of these surveys.

Contract Monitor Survey. Ten contract monitors returned the survey; two monitors are half time and were counted as one bringing the final number to nine. The following highlight the results:

- On average, each contract monitor oversaw 12 contracts and providers.
- When contract monitors visit sites, all look for:
 - Program and/or financial compliance;
 - Quality of work; and
 - Quantity of referrals as appropriate to their contract.
- If a contractor is not in compliance in an area, monitors generally discuss this with the contractor and, as a last resort, will put the contractor on a compliance plan.
- Most of the monitors, 9 out of the 12, have other program responsibilities in addition to contract monitoring.

Contractor Survey. CYF distributed surveys to numerous vendors with the County: eighteen surveys were returned.

⁴⁶ From IBM publication, *Effectively Managing Professional Service Contracts: 12 Best Practices*, 2006

Most contractors reported good relationships with their contract monitors. Some key survey results include:

- All contractors viewed the contract monitor as a compliance officer;
- Although most contract monitors visited sites yearly, contractors who seldom saw their contract monitor asked for more site visits. Most contractors were able to speak to the contract monitors whenever needed, but stated a desire for more face-to-face meetings; and
- Contractors reported improved communication with contract monitors as the primary issue for improved effectiveness.

Workgroup Recommendations. The Contract Monitoring Workgroup developed the following recommendations to improve the contract monitoring process:

1. CYF contract monitors should meet regularly with contractors for improved communication, consistency, fairness, and standard practices across CYF.
2. The Workgroup requested that CMT review and update the following documents:
 - Contract Monitor Guide;
 - Corrective Action Plan (CAP);
 - Program Monitoring Review Form; and
 - Contract Monitoring Plan.
3. The Workgroup recommended that contract monitoring be recognized as a part of an employee's job description.
4. The Workgroup recommended guidelines on consistency of preparation and usage of The Contractor Monitoring and Review Form.
5. The Workgroup recommended establishing standard procedures to ensure fiscal accountability for approving contract budgets and invoices.
6. The Workgroup recommended that the CMT assign responsibilities to CMT Contract Managers by an approach other than alphabetical, by contractor name.
7. The Workgroup recommended that CYF contract monitors should be trained on numerous functions including expectations, development of the different types of solicitations and contracts, contract monitoring practices (e.g., site visits), and the financial aspects of contract monitoring.
8. The Workgroup recommended that all contractors be trained on various aspects of contracting, including County law and regulations, budgeting, and the contract execution process.
9. The Workgroup recommended the development of specific technical assistance tools, such as a standardized tracking system, standardized letters to vendors, and a template library for contract processing.

A full copy of this Workgroup Report is available in Appendix H.

CHAPTER VII: FEEDBACK FROM COUNTY STAFF

During the course of this study, OLO interviewed staff from numerous County Government departments and offices, including:

- The Office of Procurement;
- The Office of the County Attorney; and
- DHHS offices and teams, including
 - The Office of the Chief Operating Officer,
 - Children, Youth and Family Services,
 - The Contract Management Team, and
 - The Fiscal Team.

This chapter summarizes some common themes reported by County Government staff.

Theme #1: All departments involved in the County's procurement processes lack adequate staffing and high staff turnover has resulted in new staff in key contracting positions.

County Government staff report that staff implementing the County's procurement process are struggling to keep pace with increasing procurement demands. County staff report shortfalls in staffing across all relevant areas – DHHS' program areas, the Contract Management Team, and the Fiscal Team, and the Office of Procurement.

Over the past few years, numerous retirements or resignations of knowledgeable staff have left new staff or vacant positions to oversee increasing numbers of contracts. Additionally, numerous key contracting positions have scheduled their retirement in response to current County retirement incentives.

Some DHHS staff report a lack of knowledge and understanding by new staff in key contracting positions about the general procurement process. Many new DHHS staff do not know the roles and responsibilities of other programs/offices in DHHS' procurement system and lack training on procurement laws and regulations.

In addition to a reported lack of staffing, the Office of Procurement is undergoing a lengthy reorganization into the new Department of General Services, impacting the workload of remaining contracting positions.

Theme #2: Many Children, Youth and Family Services contract monitors are program staff performing contracting duties.

DHHS staff report that many CYF staff with both contracting and direct service/policy duties are stretched thin between the combination of duties. CYF program staff do not receive training on contract administration, the contract cycle, or contract history. DHHS staff report difficulty training new contract monitors, especially new staff not specifically hired as contract monitors. Many DHHS staff recommend more training on contract administration and monitoring.

The Contract Management Team currently has weekly “check in” meetings with all CMT staff, but hopes to expand these meetings into a Brown Bag Lunch series for all DHHS staff. The CMT would also like to expand the training opportunities for all DHHS contract monitors. Many DHHS staff would like to require all DHHS contract monitors to take the Office of Human Resources’ contract administration class.

Theme #3: The size and complexity of DHHS contract workload impacts execution of DHHS contracts.

DHHS spends approximately 40% of all County Government procurement dollars. DHHS staff report that DHHS’ contract volume has certain consequences. For example, contract “slippage” often occurs – extending a contract past its end date so that services are not stopped – because of the volume of contract renewals.

DHHS staff report that the nature of DHHS contracts and services provided can lead to delays in the execution of contracts. Examples include:

- The Department must be responsive to changing Department priorities and changing state and federal guidelines;
- State and federal grant funding schedules often differ from County fiscal schedules;
- A single RFP will often result in multiple contracts; and
- DHHS has to be responsive to “hot button” issues and public outcry.

Theme #4: Department of Health and Human Services staff have begun to prioritize contract administration based on Department priorities.

DHHS staff report that Department senior management have become more involved in the contracting process and that communication between senior management and program staff has improved. Coupled with increased communication about DHHS’ overall goals and priorities, DHHS staff report an increased ability to administer contracts more quickly and in line with DHHS goals.

Theme #5: The timing of the community grant award process can lead to delays in the execution of community grant contract awards.

DHHS staff report timing difficulties for drafting contracts for community grant contract awards. Staff report that they cannot draft contracts until after the Council finalizes its annual operating budget and announces community grant awards in late May. Staff report that many vendors expect to begin delivering services on July 1. Often, the time period between late May and July 1st is insufficient for DHHS staff to draft the new contracts (DHHS administered 204 community grants in FY08) while finalizing renewal of DHHS' existing contracts. For example, in May-June of FY 2008 over 450 contract actions, exclusive of FY09 community grants, were sent to Procurement.

Theme #6: DHHS staff report a need for automation of many of its business functions, including contract execution and monitoring.

For many years, DHHS used a Microsoft Access database to track contracts and contract actions. Since 2000, the Department has attempted to replace the Access database with numerous other data management systems, all of which have not worked for various reasons. In 2008, the Department returned to using the Access database for contract administration functions. Staff use paper copies of documents for many contracting functions. Staff report that using paper is time-consuming, but still necessary to receive the proper signatures and approval. Staff would like the County's ERP system to provide the needed automation of contracting functions.

Theme #7: Some vendors are unaware of County procurement requirements, which can lead to delays in contract execution.

DHHS staff report that some vendors are unaware of the County's extensive procurement requirements and of the magnitude of DHHS' contract workload during the end of the fiscal year. Staff report that some vendors have an inaccurate expectation that funding will be available on the first day of a new fiscal year.

Staff also report that new vendors may have difficulty meeting County contracting requirements. Staff report that two common vendor-oriented delays in the execution of a contract include:

- A vendor is not a legal entity registered with the Maryland State Department of Assessments and Taxation and, therefore, cannot contract with the County; and
- A vendor does not have the appropriate insurance required for all County vendors.

Theme #8: Vendors have responded well to increased outreach and education on the procurement process and to the inclusion of performance measures in contracts.

Child Welfare Services held a Vendor Resource Fair in April 2008 to encourage networking among vendors and is planning a Brown Bag Series for vendors in 2008 to facilitate outreach, dialogue, and understanding of vendor resources between staff and vendors. Staff report that these events have begun to foster increased communication and partnerships between vendors and DHHS staff. Additionally, contract monitors report that vendors have responded positively to County Government staff requests for performance measures in the contract scope of services.

Theme #9: The procurement process is necessary to help ensure fairness, equity, and outcomes in all government procurements.

The County's procurement process reflects the County's policy goals to guarantee competitiveness, ensure procurement efficiency, and avoid corruption or the appearance of impropriety. Staff from departments across the County affirmed the need for the multiple steps in the procurement process in order to meet the County's policy goals.

Theme #10: There are mixed views on the communication between DHHS program staff and CMT staff about the contract monitoring process within DHHS.

DHHS program staff and CMT staff provided mixed feedback about current communication between these two groups. Some staff report generally an insufficient understanding of how the contracting process works across all programs, offices, and departments involved. Specific examples cited by staff include:

- Program staff do not factor in enough time for CMT to complete their steps;
- There are no consequences for late or incomplete work from program staff;
- Program staff would like more information from CMT and the Office of Procurement on status of contracts, deadlines, and procurement regulations and violations; and
- CMT is not aware of the program area budgets.

Some staff recommend increased communication to improve the process. Others suggested quarterly meetings and additional trainings between the CMT and program area staff. CMT staff reports that it plans to re-establish a CMT newsletter, to educate new staff and bolster the knowledge of long-time staff.

Theme #11: DHHS does not have standardized contract monitoring policies; the quality of contract monitoring varies between contract monitors.

DHHS does not currently have formal mandatory contract monitoring rules and procedures. DHHS' Program Monitoring Guidelines provides some guidance for contract monitors, but senior CMT staff report that the Department would like to create a formal contract monitoring policy. A lack of standard policies contributes to variations in the quality of contract monitoring among program staff.

CMT senior staff are planning meetings with program area contract monitors and administrative service coordinators to discuss training on current monitoring guidelines, as well as possible changes and enhancements. Staff cite competing responsibilities and time constraints that hinder policy development.

DHHS staff report concerns that impact the quality of contract monitoring, including:

- Due dates for monitoring reports that coincide and compete with the contract renewal period;
- Length of the contract monitoring report form;
- Standard monitoring report forms that cannot adequately accommodate evaluation of all types of vendor services; and
- Paper contract monitoring forms take time to fill out by hand.

Theme #12: The County needs to review and update procurement laws and regulations.

Numerous staff recommended a review of the County's procurement laws and regulations to allow changes to improve the efficiency of the contract execution process. DHHS staff suggested the following ideas:

- Exempt additional commodities from the procurement laws;
- Require contract renewal every other year instead of annually or allow for automatic renewal; and
- Review whether to require contracts for the community grants process.

Many staff also recommended increasing the dollar threshold for transactions requiring contracts. Under the current system, staff must spend the same amount of time developing a contract valued at \$5,001 as a contract valued at \$1 million.

Theme #13: DHHS has undertaken numerous efforts to examine and improve the contracting process.

DHHS staff report that they have taken proactive steps to improve the internal controls for contract execution and monitoring. Staff report that prior to the FY08 end-of-year contract processing, the Director, Chief Operating Officer and Chief of Financial Operations of DHHS met on numerous occasions with Office of Procurement staff to plan and establish strategies to efficiently complete end-of-year processing.

In addition, various DHHS working groups have identified and addressed DHHS contracting issues and concerns. DHHS completed the following:

- DHHS senior management completed a DHHS Barrier Analysis⁴⁷ that reviewed barriers and strategies for the Contract Management Team, program area staff, and non-competitive awardees. The report specifically looked at workload, training, technology, and procurement regulations.
- Children, Youth and Families organized a workgroup with CYF senior leadership and contract monitors to share ideas about the contract monitoring process and brainstorm improvements. The workgroup reviewed contract documents used by the Department and a contract monitor survey.

⁴⁷ See Appendix I for a copy of this Barrier Analysis

CHAPTER VIII: FINDINGS

The Children, Youth and Family Services (CYF) service area of the Department of Health and Human Services provides an array of prevention, intervention, rehabilitative, and after-care services to children and their families. CYF contracts with community-based providers to deliver a portion of its services to the community, and the administration of these contracts requires substantial staff time and resources.

DHHS has taken proactive steps to improve the internal controls of the Department's contract execution and monitoring processes. This past year, the Director, Chief Operating Officer and Chief of Financial Operations of DHHS met on numerous occasions with Office of Procurement staff to plan and establish strategies to increase the efficiency of contract processing.

In addition, two working groups in the Department have begun to identify and address DHHS contracting issues and concerns. Specifically:

- DHHS senior management completed a DHHS Barrier Analysis that reviewed barriers and strategies for the Contract Management Team, program area staff, and non-competitive awardees. This analysis examined workload, training, technology, and procurement regulations.
- Children, Youth and Families organized a workgroup with CYF senior leadership and contract monitors to discuss the contract monitoring process and brainstorm improvements. The workgroup reviewed contract documents used by the Department and results of a contract monitor survey. The Department is in the process of completing this report and is looking into aligning recommendations across service areas.

The remainder of this chapter presents OLO's findings on the contract execution and monitoring within Children, Youth and Family Services. For definitions of procurement related terms, see the glossary included in Chapter I (beginning page 3).

PROCUREMENT LAW AND REGULATIONS

Finding #1: The County Government operates a centralized procurement system with substantial responsibilities delegated to the Using Departments.

The County Charter, County Code, and Executive Regulation outline the roles and responsibilities of County Government departments in the procurement of goods and services.

- *County Charter.* Sections 313, Purchasing, and 314, Competitive Procurement, of the County Charter provide for the establishment of a centralized, professionally administered purchasing system that uses competitive procurement methods to purchase and contract for goods and services.
- *County Procurement Law.* Chapter 11B of the County Code, establishes the authority and responsibility for a purchasing system for goods and services and authorizes the County Executive to adopt regulations to implement the law.

- *County Procurement Regulations.* The Procurement Regulations implement the Procurement law. The regulations specify the duties and responsibilities of the Chief Administrative Officer, the Director of the Office of Procurement, the Using Departments, and the Contract Review Committee. The regulations also outline the administrative process for procurement, establish the division of procurement authority and responsibilities between the Office of Procurement and the Using Departments; and define the conditions that must be met for competitive and non-competitive procurements.

Finding #2: County law requires a contract for all procurements over \$5,000.

The County's procurement law require all procurements over \$5,000 to be executed through a contract. The same process applies to all contracts, regardless of amount.

In sum, once a contract is awarded, the Using Department begins negotiations with the vendor to determine an explicit set of services, terms, and conditions. While this is occurring, the Using Department works with Office of Procurement, the County Attorney, and the Department of Finance's Division of Risk Management to complete required reviews prior to final contract execution.

Office of Procurement staff then verify that contract documentation is complete and accurate and execute the contract and issue a purchase order. Once a contract has been executed and the Notice to Proceed issued, the vendor is permitted to begin service delivery. In order to receive payment, the vendor must submit invoices for services rendered; most vendors submit invoices for payment on a monthly basis.

Finding #3: County law authorizes a non-competitive contract if the Chief Administrative Officer determines that the contract award meets one of several legally-specified criteria.

County law provides that a contract may be awarded without competition if the Chief Administrative Officer determines that the contract award serves a public purpose and:

- (1) there is only one source for the required goods, service, or construction which can meet the minimum valid needs of the County, including timeliness of performance;
- (2) the contract is in connection with potential or pending litigation, condemnation, or collective bargaining;
- (3) a proposed contractor or subcontractor has been specifically identified in a grant accepted by the County; or
- (4) a proposed contractor has been identified in a grant or appropriation resolution approved by the Council.⁴⁸

⁴⁸ Montgomery County Code § 11B-14.

The CAO's recommendations for non-competitive awards requires Council approval, which is provided in a resolution, entitled the "Non-Competitive Award Designation List." Each year, as part of annual appropriation decisions, the Council incorporate its own recommendations for non-competitive awards into this resolution.

Like other County procurements over \$5,000, all non-competitive contract awards require a contract.

Finding #4: County law requires all contracts to be reviewed for compliance with numerous legal requirements.

County law – which is designed to ensure the integrity of the public procurement process – requires all contracts be reviewed to ensure that they meet certain legal requirements. The mandatory reviews of County contracts include:

- *Review of the insurance certificate* by the Division of Risk Management to make sure the vendor's insurance complies with the requirements established in the contract;
- *Approval of the contract* by the Office of the County Attorney to ensure the contract defines the services being purchased, establishes how the County will know the services have been received, and identifies the basis for compensation;
- *Enforcement of living wage requirements* to ensure that all vendors pay each "covered employee" at least \$12.40 per hour during the time the employee provides services to the County;
- *Review of the local small business designation* by the Using Department for compliance with the County's Local Small Business Reserve Program;
- *Examination of Minority, Female and Disability Program status* by the Office of Procurement for compliance with the County's MFD program; and
- *Cost and price analysis* by the Office of Procurement for competitive contracts over \$100,000, non-competitive contracts over \$50,000, or contract modifications of \$50,000 or more.

AGENCY ROLES AND RESPONSIBILITIES IN CONTRACT ADMINISTRATION

Finding #5: Numerous County departments assist with the execution of DHHS contracts.

The County process to finalize contracts is an interdepartmental effort between DHHS and three other County departments or offices – the Office of Procurement, the Department of Finance, and the Office of the County Attorney.

- *Office of Procurement.* The Office of Procurement (recently reorganized into the Department of General Services) oversees certain tasks in the procurement process and helps ensure that DHHS complies with the County's Procurement Regulations. Some of the Office of Procurement's responsibilities include advertising solicitations, posting notices of intent for contract awards, ensuring compliance with MFD requirements, administering the Local Small Business Reserve Program, and conducting cost/price analyses.
- *Department of Finance.* The Division of Risk Management in the Department of Finance establishes insurance requirements and reviews certificates of insurance for County contracts. The Accounts Payable Section reviews vendor invoices and processes the payment of vendor invoices.
- *Office of the County Attorney.* The Office of the County Attorney reviews contracts drafted by DHHS during the contract negotiation and execution phase for form and legality.

Finding #6: DHHS' Contract Management Team and Fiscal Team provide support and technical assistance for the execution of all DHHS contracts.

Two teams in DHHS' Office of the Chief Operating Officer – the Contract Management Team and the Fiscal Team – provide administrative and technical support for contract execution and monitoring for all DHHS contracts.

The Contract Management Team provides technical contracting assistance to DHSS service area staff, maintains official contract document files, and manages the flow of documents for all DHHS contract actions. The CMT also serves as DHHS' primary liaison to the County Government's contract processing offices outside of DHHS.

DHHS' Fiscal Team provides budgetary and fiscal oversight for all DHSS contracts and vendor payments. The Fiscal Team reviews contract requisitions generated by the CMT to create pre-encumbrances and reviews vendor invoices submitted for payment.

CONTRACT ADMINISTRATION IN CHILDREN, YOUTH AND FAMILY SERVICES

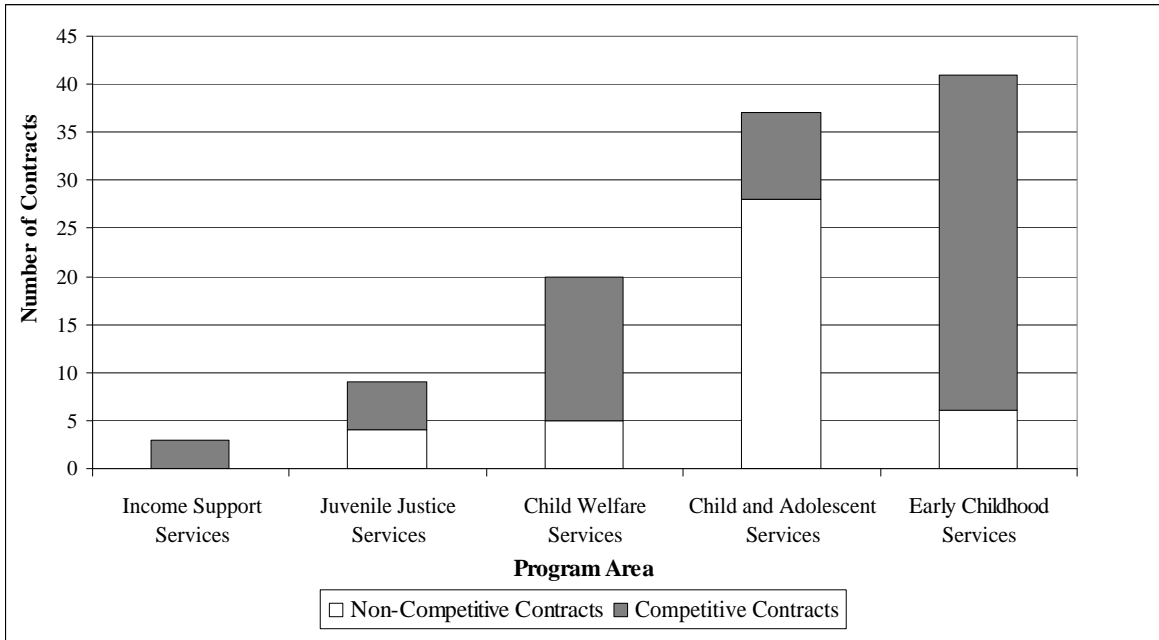
Finding #7: During FY08, Children, Youth and Family Services staff administered 110 contracts with a value of \$17.3 million.

Of the 110 contracts administered by Children, Youth and Family Services (CYF) during FY08, 67 (63% of total contract funding) were awarded as the result of a competitive procurement process. The other 43 contracts (36% of total contract funding) were awarded non-competitively.

In FY08, 56 contracts (63% of total contract funding) resulted from Requests for Proposals; 39 contracts (27% of total contract funding) originated from non-competitive community grants. The tables on the next page summarize CYF's FY08 contracts.

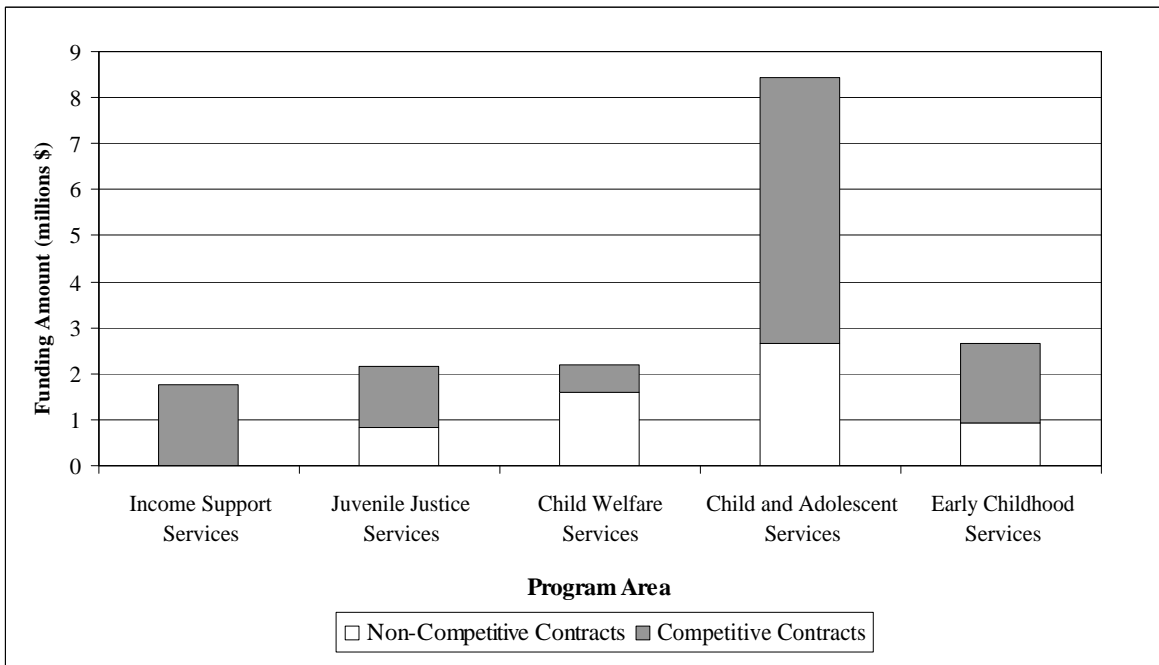
The first table on the next page shows the number of contracts administered by each program area in CYF. The second table shows the funding amounts for the contracts administered for each program. The data show that the Early Childhood Services Program administered the largest number of contracts (41 contracts) and Child and Adolescent Services had the most number of community grants (27).

Exhibit 8-1. Number of Children, Youth and Family Services Contracts by Type and Program Area, FY08



Source: Children, Youth and Families Program Areas

Exhibit 8-2. Funding Value of Children, Youth and Family Services Contracts by Type and Program Area, FY08



Source: Children, Youth and Families Program Areas

Finding #8: Children, Youth and Family Services' five program areas have different organizational structures for contract administration functions.

Children, Youth and Family Services staff involved in contract administration function either as "contract monitors" and/or "fiscal managers:"

- Contract monitors have the primary responsibility for contract administration and typically have the following responsibilities: defining service needs; determining the type of procurement method for a contract; defining the scope of services, and establishing and maintaining a working relationship with the vendor throughout the contract term.
- Fiscal managers principally review invoices and process vendor payments, and initiate contract actions at the request of the contract monitor. They may also assist with the on-going monitoring of the contract.

Currently, 19 staff across the five program areas serve as contract monitors and/or fiscal managers. Each program area has a different combination of contract monitors and fiscal managers. In Child Welfare Service and Income Support Services, the contract monitors also serve as the fiscal managers. Early Childhood Services has a fiscal manager and numerous contract monitors who manage multiple contracts for a particular type of service. Juvenile Justice Services and Child and Adolescent Services share a common fiscal manager and have contract monitors who manage different numbers of contracts.

The table below lists the number of program staff (for each program area) who assist with the administration of contracts.

Table 8-1. Summary of CYF Contract Staff and Contract Data

Children, Youth and Families Program Area	Number of Staff Administering Contracts	Number of FY08 Contracts	Value of FY08 Contracts Administered (\$ in 000s)
Child Welfare Services	2	20	\$2,200
Early Childhood Services	8	41	\$2,842
Income Support Services	2	3	\$1,746
Juvenile Justice Services	5*	9	\$2,165
Child and Adolescent Services	4*	37	\$8,419

* Two staff administer contracts in both Juvenile Justice Services and Child and Adolescent Services. These positions are counted in both program area totals.

Source: Children, Youth and Families Program Areas

Finding #9: Children, Youth and Family Services contract monitors are responsible for numerous tasks in the contract administration process. Many CYF contract monitors are program or administrative staff who also perform contract administration duties.

Once a contract is awarded, CYF contract monitors work directly with vendors to create a contract package. The tasks involved in this process include:

- Determining the scope of services;
- Negotiating the budget and accuracy of budget details; and
- Developing contract performance measures.

Contract monitors prepare internal DHHS Contract Action Worksheets (CAWs), which summarize contract actions, and obtain supervisory approval. Contract monitors also prepare monitoring plans that describe the nature and frequency of contract monitoring.

Once a contract package is prepared by the contract monitor, the contract package is reviewed and approved by three additional senior Children, Youth and Family Services staff (CYF Fiscal Manager, CYF Administrative Services Coordinator, and CYF Service Chief). Following this review, the contract package is sent to DHHS' Contract Management Team.

Finding #10: Beginning this year, all contract monitors must attend a Contract Administration Class.

Starting in FY09, Children, Youth and Family Services contract monitors are required to take the Office of Human Resources' Contract Administration Training class. Until this year, CYF contract administration staff were encouraged, but not required, to enroll in formal contract administration training. In addition to formal training, CYF staff report that contract monitors learn about contract administration on the job and through interaction with other DHHS contract monitors.

DATABASE AND TECHNOLOGY MANAGEMENT IN CHILDREN, YOUTH AND FAMILY SERVICES

Finding #11: DHHS' current database and technology management do not meet the Department's contract administration needs.

While there is some use of automation, the contract administration function in Children, Youth and Family Services remains primarily a paper-based system. There are numerous levels of contract document filing:

- The Contract Management Team maintains DHHS' official set of contract document files;

- The Contract Management Team maintains an unofficial set of working files used by CMT staff to process contracts;
- The contract monitoring plans or reports are maintained in the CMT, in a separate file from the official contract file; and
- Many program area contract monitors maintain their own contract files.

Database Technology. The Contract Management Team currently uses a Microsoft Access database to track contracts and contract actions. Staff report that while the Access database is adequate for many purposes, it lacks the capacity for the volume of contract actions the Department wants to track.

In 2006, the Department attempted to transition its procurement process to a fiscal management system designed by J.D. Edwards (a software company). As part of this process, the database system administrator wrote custom code for approximately 90% of the J.D. Edwards system, but produced no documentation of the custom coding. The few DHHS staff with knowledge of the coding have since left the department.

DHHS staff report numerous problems with the J.D. Edwards system. DHHS is currently deconstructing the system and scaling its use down to core functions that cannot be performed by another system. As a result, the Department returned to the use of Microsoft Access for many business functions, including the database of contracting actions.

In addition, the CMT and the CYF program areas maintain separate databases to track contract information, based on their needs. These two databases do not contain identical information about the contracts managed by CYF – some contracts are listed in one database but not the other and vice versa.

CONTRACT EXECUTION OF CHILDREN, YOUTH AND FAMILY SERVICES CONTRACTS

Finding #12: A review of CYF's processing of new contracts during FY08 showed substantial differences in the length of time for contract execution and vendor payments across all types of contracts.

Children, Youth and Family Services executes contracts based primarily on three different procurement methods: requests for proposals, open solicitations, and community grants. Requests for proposals and open solicitations are two methods of developing contracts through competitive competition. In addition, each year, the County Executive and County Council designate numerous for-profit and non-profit organizations as non-competitive award recipients who receive community grants.

The table below shows the average and range of elapsed times for CYF's contract execution and vendor payments for new FY08 contracts, based on each of these procurement methods. (Because the procurement methods are different, the dates tracked are described below the table.) The data examined showed that, during FY08, the average elapsed time for contract execution and vendor payment was longer for community grants than for open solicitations and requests for

proposals. In particular, the average elapsed time for community grant execution was 114 days, compared with 93 days and 84 days for RFPs and open solicitations respectively.

Table 8-2. Average Elapsed Time and Range of Time for New Contracts in Children, Youth and Family Services in FY08

Contract Based On...	Contract Execution		Vendor Payments	
	Average Elapsed Time (days)	Range of Time (days)	Average Elapsed Time (days)	Range of Time (days)
Request for Proposal (N=13)	93	46-139	45	13-94
Open Solicitation (N=5)	84	60-115	47	17-88
Community Grant (N=10)	114	94-167	82	38-130

Source: DHHS Contract Management Team

The calculation of elapsed time for contract execution and vendor payments for the three different types of procurements are as follows:

	<i>Contract Execution Start Date</i>	<i>Contract Execution End Date</i>
RFP	Notice of Intent to Award	Notice to Proceed Issued
Open Solicitation	Date contract signed by vendor	Notice to Proceed Issued
Community Grant	Date of award	Notice to Proceed Issued

	<i>Vendor Payment Start Date</i>	<i>Vendor Payment End Date</i>
RFP	Notice to Proceed Issued	First Payment
Open Solicitation	Date contract signed by vendor	First Payment
Community Grant	Notice to Proceed Issued	First Payment

Finding #13: Department staff identified numerous factors that may delay the execution of a contract.

During the course of gathering information for this report, OLO talked with County staff about what factors delay the execution of a contract. The general consensus of those interviewed was that there can be various reasons that a contract does not proceed in a “timely” way. The most often cited reasons are listed below.

- The increasing size and complexity of DHHS’ contract workload leads to delays in the execution of DHHS contracts. Specifically, the number of renewals has increased significantly;
- There is a lack of automation for contract execution and other business processes; and
- There is a lack of staffing across departments with a role in contract execution.

County staff also report that numerous factors may have more of an impact on the contract execution timeframe for community grants compared with other contracts. County staff identified the following factors:

- The development of community grant contracts occurs at the same time that Department staff are busy with all other end-of-year contract processing;
- In comparison to contracts awarded as a result of a competitive process, there is often less documentation available prior to award; and
- The vendors are more likely to be unfamiliar with the County's procurement requirements and it takes longer for the vendors to generate the required documentation.

CONTRACT MONITORING IN CHILDREN, YOUTH AND FAMILY SERVICES

Finding #14: The Department of Health and Human Services has established guidelines for contract monitoring practices. The use of the program monitoring guidelines varies among contract monitors in Children, Youth and Family Services.

In 2003, DHHS created Program Monitoring Guidelines. These Guidelines serve as best practices for contract monitoring in DHHS.

According to the Guidelines, the responsibilities for contract monitoring are shared between the Contract Management Team staff and the program area contract monitors. The Guidelines outline methods for monitoring contracts, discuss the use of performance measures for contract monitoring, and provide standard contract monitoring forms. The Guidelines recommend that contract monitors develop Contract Monitoring Plans within 60 days of contract execution, but CMT and program area staff report that, in general, plans are not submitted in this timeframe.

DHHS staff report significant variance in the level and degree of contract monitoring among contracts and cite the following factors for this variation:

- Contract administration workload of a contract monitor;
- Direct service workload of a contract monitor;
- History and reputation of a vendor;
- Type and complexity of a contract;
- Dollar value of a contract; and
- Community visibility of a service.

CHAPTER IX: RECOMMENDATIONS

This chapter outlines the Office of Legislative Oversight's recommendations for Council action. The first recommendation identifies potential changes to County law and regulations with the goal of increasing efficiency of the procurement process while preserving accountability. The other three recommendations seek to improve the general effectiveness of the Department of Health and Human Services' (DHHS) procurement management and practices.

Recommendation #1. Consider amending County law governing contracts in order to increase efficiency in the procurement process.

The County's procurement law requires procurements over \$5,000 to be executed through a contract. And once a procurement is subject to a contract, the same process applies for executing that contract, regardless of the amount or type of award.

OLO recommends that the Council discuss ways the County can responsibly change the parameters concerning which purchases must go through the comprehensive contract execution process, and entertain a new approach for implementing non-competitively awarded community grants.

First, to reduce the number of contracts that County staff need to process for relatively small amounts or certain types of purchases, OLO recommends the Council considering:

- Increasing the dollar threshold for purchases that require a contract; and
- Adding additional items to the list of purchases that are exempt from the County's routine procurement process.

OLO recommends the Council consider increasing the threshold for direct pay procurements, which eight years ago was set at \$5,000. Increasing the dollar threshold of purchases that require a contract would enable staff to focus more time and attention on contract execution and monitoring of higher value procurements. For example, five of the 25 new FY08 contracts in Children, Youth and Family Services (CYF) were for amounts between \$5,000 and \$10,000; if the threshold had been \$10,000, these five purchases could have been accomplished simply as direct pay purchases.

The County's procurement law already exempts certain types of purchases from the procurement regulations, e.g., mileage reimbursement, membership dues, and utilities.⁴⁹ The Council should consider whether additional items, such as certain medications and vaccinations, similarly should be placed on the exemption list.

Second, OLO recommends the Council consider changing the law to create a different mechanism for implementing non-competitive community grant awards. In particular, OLO recommends the Council discuss with Executive Branch the feasibility of changing the procurement law to provide Departments an alternative to executing comprehensive contracts for

⁴⁹ Appendix A lists all of the items that the law currently exempts from procurement regulations.

all vendors named on the Non-Competitive Contract List. Alternatives that were suggested during the course of this study include making direct grants to vendors for amounts under a specified amount or developing a hybrid grant/contract system with fewer contract development and execution requirements.

Recommendation #2. Update and formalize DHHS' contract monitoring guidelines.

In 2003, the Department of Health and Human Services established Program Monitoring Guidelines for contract monitoring practices; there is currently uneven use of these Guidelines among DHHS' staff contract monitors.

OLO recommends the Guidelines be updated and deemed required for use by all DHHS staff who monitor contracts. This could enhance DHHS' efforts to implement performance-based contracting and could create more consistent contract monitoring in Children, Youth and Family Services and across DHHS' service areas.

OLO recommends that the Council ask the Chief Administrative Officer to update and formalize DHHS' Contract Monitoring Guidelines, and provide a progress report back to the Council by January 15, 2009.

Recommendation #3. Assess adequacy of DHHS training for contract monitors and consider implementation of a Children, Youth and Family Services Workgroup recommendation to train vendors.

Many Children, Youth and Family Services contract monitors are program staff who also have been assigned contract monitoring responsibilities. Until recently, CYF contract monitors were not required to attend formal contract administration training. Beginning in FY09, all DHHS staff who serve as contract monitors must take a Contract Administration Training class.

In addition to DHHS' staff needs for training, many vendors with County contracts are not familiar with the County's procurement policies and processes. This can contribute to delays in contract administration, and unrealistic vendor expectations about the length of time it takes for contract execution and payment processing. To help remedy this situation, a CYF Workgroup recommended the County provide training for all vendors on:

- The contract execution and monitoring process;
- Budgeting and invoicing; and
- The County's overall procurement and payment process.

OLO recommends that the Council ask the Chief Administrative Officer to report back by January 15, 2009 on whether DHHS training for contract administration staff is sufficient, and on the feasibility of implementing the CYF's staff recommendation to provide training for vendors.

Recommendation #4. Develop an interim technology and data management plan for DHHS' procurement process pending full implementation of the County's ERP system.

As discussed earlier in this report, DHHS' current database technology and management do not meet the Department's contract administration needs. The Executive Branch Enterprise Resource Planning (ERP) initiative is expected to provide major improvements to Countywide technology use, including a new procurement application. However, it will be a number of years before the ERP procurement application is available for use by DHHS staff.

DHHS currently relies on a system to develop, execute, and monitor contracts that is still primarily paper-based. DHHS' efforts to implement a new fiscal management system that would also track contracting actions were recently halted due to problems with the system; as a result, the Department has now returned to its prior use of a Microsoft Access database to track contract actions.

Given how much DHHS relies on contracting to deliver services, OLO recommends that the Council ask the Chief Administrative Officer (CAO) to consider implementing an interim technology solution to better meet DHHS' contract administration needs. OLO recommends that the Council ask the CAO to report back on this issue by January 15, 2009.

CHAPTER X: AGENCY COMMENTS

The Office of Legislative Oversight circulated a draft of this report to the Department of Finance, Department of General Services, Department of Health and Human Services, and the Office of the County Attorney.

Written comments from the Chief Administrative Officer are included in their entirety beginning on the following page. OLO greatly appreciates the time taken by everyone who reviewed the draft report.



OFFICES OF THE COUNTY EXECUTIVE


Isiah Leggett
County Executive

Timothy L. Firestine
Chief Administrative Officer

MEMORANDUM

September 9, 2008

TO: Kristen Latham, Legislative Analyst
Office Legislative Oversight

FROM: Timothy L. Firestine 
Chief Administrative Officer

SUBJECT: **OLO's Draft Report on DHHS' Contract Execution and Monitoring Process**

Thank you for the thoughtful and comprehensive work you have done in summarizing and analyzing the procedures and practices for executing and monitoring contracts in the Department of Health and Human Services (DHHS). We know that you worked cooperatively and collaboratively with County staff to gather the extensive information needed for this report and appreciate the opportunity to comment on its content.

All departments involved in the activities that are the subject of OLO's draft report, namely DHHS, Department of General Services, Department of Finance, and the Office of the County Attorney, have already submitted to OLO (through DHHS) technical and factual corrections to the draft report. In terms of the substance of the draft report, we largely concur with the themes and findings cited in the report. We believe that the report is consistent with our understanding of the challenges confronted by all departments and offices in the Executive Branch that participate in the complex tasks required to assure appropriate levels of quality service delivery, oversight, and monitoring of the County's procurement system.

The report clearly identifies resource, business process, and regulatory challenges with contracting processes. In addition, it highlights the need to enhance staff competencies and standardize monitoring expectations. The report focuses attention on the trend that there is an ever increasing volume and complexity to the contracts administered by the DHHS and supported by other County departments. It is necessary to focus our collective efforts on resolving these challenges in order to accomplish the work required, the training needed by staff, and the appropriate efficiencies to improve the overall system involving the many departments within County government.

Kristin Latham
September 9, 2008
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As the report indicates, DHHS, with support from its partner departments, has already begun to move forward in a number of areas, including increased and mandatory training for monitoring staff, updating and standardizing monitoring practices, and proactive steps to improve internal controls for contract execution and monitoring. We welcome the opportunity for further discussion about possible amendments to County law governing contracts in order to increase efficiency.

We appreciate being able to respond to this draft report and look forward to working to address the issues that OLO has raised. If you have questions or need further information, please contact DHHS' Director Uma S. Ahluwalia or DHHS' Chief Operating Officer Corinne Stevens.

TLF:jgs

cc: Uma Ahluwalia, Director, Department of Health and Human Services
David Dise, Director, Department of General Services
Leon Rodriguez, County Attorney
Jennifer Barrett, Director, Department of Finance